

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEREMIAH HARRIS,

Defendant.

No. 20 CR 637

Chicago, Illinois

July 6, 2022

10:10 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS -
Sentencing
BEFORE THE HONORABLE MANISH S. SHAH

APPEARANCES:

For the Government:

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United States Attorney

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BREEN & PUGH

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1 APPEARANCES (Continued):

2
3 U.S. Probation Office: MR. MICHAEL I. ALPER

4
5 Also Present: MS. CYNTHIA L. SHORT, defense
6 mitigation specialist

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1 (Defendant present. Proceedings heard in open court:)

2 THE CLERK: 20 CR 637, United States versus Harris.

3 MS. GUZMAN: Good morning, Your Honor. Kelly Guzman
4 on behalf of the United States.

5 MR. PUGH: Good morning, Your Honor. Todd Pugh, Josh
6 Herman, Alexandria Miceli, and Chelsy Van Overmeiren on behalf
7 of Jerry Harris.

8 MR. ALPER: Good morning --

9 THE COURT: Mr. Harris is present. I see Mr. Harris.

10 MR. PUGH: He is, Your Honor.

11 MR. ALPER: Good morning, Your Honor. Michael Alper,
12 U.S. Probation.

13 THE COURT: Good morning, everyone.

14 We're here today for sentencing. Is the government
15 ready to proceed?

16 MS. GUZMAN: Yes, Your Honor.

17 THE COURT: Mr. Pugh, is the defense ready to
18 proceed?

19 MR. PUGH: We are, Your Honor.

20 THE COURT: Mr. Harris, let me just talk to you a
21 little bit about how this process is going to work this
22 morning.

23 First, I am going to just make sure that I have
24 everything that I am supposed to have. We'll then talk about
25 the Presentence Investigation Report. I will calculate the

1 sentencing guidelines that apply to your case. Then we are
2 going to review the proposed conditions of supervised release.

3 After that, there are a number of issues that, in
4 some ways, are preliminary to what, I imagine, is the most
5 important issue, but we'll address those preliminary issues
6 first. That includes restitution, forfeiture, special
7 assessments, a fine.

8 And after we resolve those issues, I'll hear, then,
9 the presentations from the parties. I'll have the defense go
10 first, and I'll hear from people who the defense would like me
11 to hear from. I will then hear from any victims who would like
12 to be heard. And then the government's lawyer will make her
13 presentation. Then, Mr. Harris, I'll give you an opportunity
14 to speak to me and address me.

15 And after all of that, that may be a good time to
16 take a break, and we might take a break, or we'll continue.
17 And then I will explain how I take into account everything that
18 I need to take into account and then I'll announce the
19 sentence.

20 So all of that's going to take a little time this
21 morning. If at any point you'd like to speak privately with
22 your lawyers, just let me know, and I'll stop what we're doing
23 and I'll give you the opportunity to speak privately with them.

24 We are going to place you, Mr. Harris, under oath
25 because I want to ask you a few questions, primarily just to

1 make sure that you are ready to proceed.

2 But you should keep in mind that you will be under
3 oath. Anything you say can be used against you. Any false
4 statement you make can be used against you in a new prosecution
5 for perjury or making false statements.

6 If you don't want to answer a question that I may
7 ask, you don't have to answer it, and I won't hold it against
8 you if you choose not to answer it.

9 Do you understand everything I have said so far?

10 (Defendant nods.)

11 THE COURT: If you could speak into a microphone.

12 THE DEFENDANT: Yes, sir, I do.

13 THE COURT: Please swear in Mr. Harris.

14 THE CLERK: Raise your right hand.

15 (Defendant stands and is duly sworn.)

16 THE COURT: Thank you, Mr. Harris. You can take a
17 seat.

18 (Defendant sits.)

19 THE COURT: Mr. Harris, have you received the
20 Presentence Investigation Report?

21 THE DEFENDANT: Yes.

22 THE COURT: Did you read it?

23 THE DEFENDANT: Yes.

24 THE COURT: Did you discuss it with your lawyers?

25 THE DEFENDANT: Yes.

1 THE COURT: Did they answer any questions you had
2 about the Presentence Investigation Report?

3 THE DEFENDANT: Yes.

4 THE COURT: Thank you, Mr. Harris.

5 I have the Presentence Investigation Report with its
6 exhibits, which includes the government's version of the
7 offense with reports of interviews attached and the victim
8 impact statement from Minor 1's parent.

9 I have the defense version of the offense with its
10 exhibits, which were submitted also as a supplement to the PSR,
11 and on a flash drive. And that includes several hours of video
12 statements from friends and supporters, letters from
13 supporters, a video called a Bodymap video that Mr. Harris
14 narrates, along with a written report from Dr. Urbanik. I have
15 Dr. Hutchinson's report, Dr. McGarrahan's report, the Social
16 Security records, the medical records, the school records, the
17 certificates and awards, the genogram, and various timelines of
18 neuropsychological, psychological, and medical testing, and
19 what the lawyers have called a life chronology timeline.

20 I have the Probation Office's recommendation, the
21 defense sentencing memorandum with its exhibits, the
22 government's sentencing memorandum, and the defense objections
23 to the recommended supervised release conditions.

24 I think that's everything that's part of the record
25 for sentencing, but let me confirm that with the lawyers.

1 Ms. Guzman, is there anything I have omitted or
2 forgotten to mention?

3 MS. GUZMAN: Not to my knowledge, Your Honor.

4 THE COURT: Mr. Pugh?

5 MR. PUGH: Your Honor, I did yesterday send over four
6 curriculum vitae that we would ask be made part of the record
7 in this case as well.

8 THE COURT: I did receive those as well, and I have
9 them.

10 Are there any government corrections to the PSR?

11 MS. GUZMAN: No.

12 THE COURT: And I understood from the defense memo
13 that there were no corrections to the PSR. Is that right?

14 MR. PUGH: That is correct, Your Honor.

15 THE COURT: Then I will adopt the Presentence
16 Investigation Report.

17 And, Mr. Alper, my thanks to the Probation Office --

18 MR. ALPER: Thank you, Your Honor.

19 THE COURT: -- for the report.

20 Let's talk about the sentencing guidelines and the
21 formal calculation of the guidelines.

22 The Probation Office's calculation was slightly
23 different than the parties' preliminary calculation in the plea
24 agreement, but I understand that there is no dispute now about
25 how the Probation Office has calculated the guidelines.

1 Is that right, Ms. Guzman?

2 MS. GUZMAN: That is correct, Your Honor.

3 THE COURT: Mr. Pugh, is that right?

4 MR. PUGH: That is correct, Your Honor.

5 THE COURT: Does the government make the motion for
6 the third point for acceptance of responsibility?

7 MS. GUZMAN: Yeah, at this time, Your Honor, but we'd
8 ask to reserve until we hear the defense presentation.

9 THE COURT: That's fine. We'll reserve on that
10 motion. But it ultimately, likely, will not affect the
11 guidelines calculation.

12 With the understanding that an expectation that an
13 adjustment for acceptance of responsibility will be applied,
14 the adjusted offense level will be a level 43, the criminal
15 history category is I, so the guidelines, the sentencing
16 guidelines, would recommend life in prison, but because the
17 offenses of conviction have a maximum total sentence of 50
18 years in prison, the guidelines recommendation, then, is 50
19 years in prison, or 600 months.

20 The recommended fine range is \$50,000 to \$500,000.
21 And I'll just note that, as I look at the fine table, the fine
22 table max is \$500,000. I think the PSR mentioned 250,000, or
23 at least the recommendation said 250, but, as I read the fine
24 table, the maximum fine is \$500,000.

25 And the guidelines recommend a term of supervised

1 release of five years to life.

2 Does that comport with the parties' understanding of
3 the guidelines calculation? Ms. Guzman?

4 MS. GUZMAN: Yes, Your Honor.

5 THE COURT: Mr. Pugh?

6 MR. PUGH: It does, Your Honor.

7 THE COURT: And, Mr. Alper, does that track with the
8 Probation Office's understanding?

9 MR. ALPER: Yes, Your Honor.

10 THE COURT: Let's next talk about the conditions of
11 supervised release.

12 Mr. Pugh, have you reviewed the language of the
13 proposed conditions of supervised release with Mr. Harris?

14 MR. PUGH: We have, Your Honor.

15 THE COURT: Do you agree, on his behalf, that when I
16 am referring to and imposing conditions of supervised release,
17 I can refer to them by reference to what's in the PSR without
18 reading them out loud, verbatim to Mr. Harris?

19 MR. PUGH: We do agree with that procedure, Your
20 Honor.

21 THE COURT: And do you also -- with exception to your
22 objections, which we'll address in a moment, do you waive an
23 explanation of the reasons for imposing the conditions of
24 supervised release?

25 MR. PUGH: We do waive, Your Honor.

1 THE COURT: Mr. Harris, let me talk to you about that
2 for a moment.

3 In your Presentence Investigation Report, there are
4 some conditions of supervised release that have been
5 recommended in your case.

6 Conditions of supervised release are part of the
7 sentence. And during the time of supervised release, you'd be
8 required to comply with those conditions. And the failure to
9 comply with conditions of supervised release could result in
10 further imprisonment.

11 Mr. Pugh is telling me that other than some
12 objections that have been raised that we'll talk about in a
13 moment, you don't need me to read out loud to you the
14 conditions of supervised release if I am imposing the ones that
15 have been recommended in your case, and you don't need me to
16 explain to you why I am imposing those conditions.

17 Is all of that correct?

18 THE DEFENDANT: Yes, it is.

19 THE COURT: Okay. Thank you, Mr. Harris.

20 Other than the written objections, Mr. Pugh, are
21 there any other objections to the conditions of supervised
22 release?

23 MR. PUGH: No, Your Honor.

24 THE COURT: Then I will resolve those, the objections
25 you have raised, now.

1 MR. PUGH: And, Your Honor, may I ask that Ms. Miceli
2 address the Court on these objections?

3 THE COURT: Sure, that's fine.

4 As to the mandatory condition No. 6 for substance
5 abuse use and testing, I agree with the defense that there is a
6 low risk of future substance abuse, so I will ameliorate
7 mandatory condition No. 6 and delete the substance abuse
8 testing part of that condition. But I do intend to impose the
9 part of the mandatory condition that prohibits the unlawful use
10 of a controlled substance.

11 My view is making sure that Mr. Harris is clearheaded
12 is important, as is making sure he's not breaking any laws.
13 And to the extent federal law on the use of controlled
14 substances is different than state law, this will make sure
15 that Mr. Harris understands he needs to comply with federal
16 law.

17 Does the government have any issue with that
18 modification that I intend to impose?

19 MS. GUZMAN: No, Your Honor.

20 THE COURT: Mr. Alper, does Probation have any issue
21 with that?

22 MR. ALPER: No, Your Honor.

23 If I am to understand correctly, then, for the
24 condition 6, it'll end after "use of a controlled substance,"
25 period? Everything after the word "and" will be stricken?

1 THE COURT: Correct.

2 Next, there is an objection to discretionary
3 condition No. 7.

4 And I agree with the defense that a prohibition on
5 any use of alcohol is unnecessary. There is no indication that
6 alcohol and controlled substances were contributors to the
7 offense conduct, but, as I said, I do think keeping Mr. Harris
8 generally clearheaded is a good idea, so I will modify that
9 condition to prohibit the excessive use of alcohol defined as
10 having a blood-alcohol concentration of 0.08% and any use of a
11 narcotic drug or controlled substance, as defined by federal
12 law, without a prescription.

13 Does the government have any issues with that?

14 MS. GUZMAN: No, Your Honor.

15 THE COURT: Mr. Alper, does Probation have any issue
16 with that?

17 MR. ALPER: No, Your Honor.

18 THE COURT: Next, there is an objection to
19 discretionary condition 23.

20 The defense objection to condition 23 is overruled.
21 It is limited by the possessive "your person, property, et
22 cetera." I don't agree that adding the words "in which you
23 have an ownership or possessory interest" clarifies anything.
24 And I worry, actually, that that modifier would make this
25 condition underinclusive.

1 If Mr. Harris is staying in a place where he doesn't
2 have an ownership or possessory interest, that still could be a
3 location where it's reasonable to search for evidence of a
4 violation. And "your person, property, et cetera" is not vague
5 in my view.

6 The reason to warn other occupants is to avoid a
7 situation where a probation officer is conducting a search and
8 encounters someone who is surprised and possibly hostile. That
9 condition protects the probation officer and is appropriate.
10 So that objection is overruled.

11 As to special condition No. 9, I am bound by *Rhodes*,
12 R-h-o-d-e-s, and I also agree with it. These kinds of
13 contingent conditions that depend on facts and circumstances
14 that are unknown today are best addressed when closer in time
15 to implementation.

16 The objection is noted now and can be raised if and
17 when a specific form of testing is sought by Probation.

18 The objection to the recommended -- to the
19 prohibition on possession or use of a device with internet
20 access or online computer service without prior approval of the
21 probation officer is overruled.

22 I have no reason to think that the Probation Office
23 would withhold approval for any device or access that is
24 appropriate and necessary for modern life. And if there's an
25 issue with implementation, Mr. Harris can bring it to my

1 attention during the time of supervised release.

2 And the same is my view for the prohibition on a
3 "device that could be used for covert photography." I don't
4 agree that "covert" is vague, and there is no reason to think
5 prior approval for any kind of device would be withheld if it's
6 determined that that kind of device would be appropriate for
7 Mr. Harris to have.

8 On the issue of unsupervised private contact with
9 persons under 18 without approval of a probation officer and
10 treatment provider, I agree with the defense that the word
11 "and treatment provider" is unnecessary and unclear, and I will
12 strike that. The Probation Office can be the source of
13 approval with respect to those contacts.

14 I don't agree that "engage in activities" is vague.
15 It is modified by the restrictive clause "that will put you in
16 unsupervised private contact with any person under the age of
17 18."

18 I am inclined to delete the prohibition on "not
19 knowingly visit locations where persons under age 18 regularly
20 congregate." Even though, as phrased, this restriction is not
21 applicable to unintentional incidental contact in the normal
22 commercial business, as phrased, this condition doesn't have
23 the benefit of prior approval, so my view is that there are
24 other laws in place and other conditions in place that will
25 adequately monitor Mr. Harris, and that should be sufficient,

1 as we sit here today, for conditions.

2 And, again, if there is some issue with where Mr.
3 Harris wants to go, that can be raised with me during
4 supervised release.

5 Ms. Guzman, does the government have any issue with
6 that ruling by me?

7 MS. GUZMAN: No, Your Honor.

8 THE COURT: Mr. Alper, any issues with that from
9 Probation?

10 MR. ALPER: No, Your Honor.

11 THE COURT: I think that addresses all of the raised
12 objections, but, counsel, you can tell me if I've missed
13 something.

14 MS. MICELI: Judge, we would just ask for
15 clarification on what is involved in supervision for the
16 private contacts. So it says "unsupervised private contact."
17 Does that mean a legal guardian or is it something more? Any
18 adult?

19 THE COURT: I am satisfied that the Probation Office
20 can implement what "supervision" means, and that common,
21 everyday language about what "supervision" entails is adequate
22 notice to Mr. Harris.

23 (Defense counsel nods.)

24 THE COURT: Anything else on supervised release for
25 the defense?

1 MS. MICELI: I do not believe so, Your Honor.

2 THE COURT: So the defense objections to the proposed
3 conditions of supervised release are overruled in part and
4 sustained in part.

5 I do intend to impose an eight-year term of
6 supervised release. I think that is sufficient but not greater
7 than necessary based on what I know and what I expect of Mr.
8 Harris today.

9 That term could be extended if there is a problem.
10 But eight years will be a long time of supervision and will
11 give us enough information to know whether Mr. Harris can be a
12 law-abiding person who is not a danger to others. And all of
13 the recommended conditions are appropriate to make sure that
14 Mr. Harris is engaged in lawful behavior, thinking clearly,
15 getting any needed treatment and help, and that the Probation
16 Office has the tools necessary to keep an eye on him and
17 monitor his compliance with any obligations, including any
18 financial obligations that may still be in place during
19 supervision. And all of that is designed to keep the public
20 safe from future criminal conduct. So I do intend to impose
21 that term of supervised release.

22 Next, let's talk about restitution.

23 The government's motion to defer a final restitution
24 finding is granted.

25 I understand there is no objection to that from the

1 defense?

2 MR. PUGH: There is not. And we'll work that out, I
3 think, with the government in the ensuing weeks.

4 THE COURT: Let me set a couple of deadlines with
5 respect to that.

6 Any claimed losses must be reported to the Probation
7 Office by September 8th.

8 Does the defense waive an in-person appearance for
9 any final determination of restitution?

10 MR. PUGH: We do, Your Honor.

11 THE COURT: Any briefs on restitution must be filed
12 by September 22nd.

13 And then I will be sure to enter an amended judgment
14 with restitution before October 4th, which, by my calculations,
15 is 90 days from today. And under Section 3664, that's the
16 statutory deadline to finalize restitution.

17 When thinking about and addressing restitution, I'd
18 ask the parties to address Section 2259(b)(2), which, as I read
19 it, sets a minimum of not less than \$3,000 in restitution. At
20 least with respect to Count Three. And I believe that would be
21 \$3,000 each as to Minor 2 and Minor 3.

22 But I'd just flag that for the parties to make sure
23 you have thought about that in your submissions.

24 MS. GUZMAN: Yes, Your Honor.

25 THE COURT: Next, let's talk about forfeiture.

1 I didn't see a written motion for a preliminary order
2 of forfeiture as to the forfeiture allegation in the
3 indictment.

4 Do you want to make an oral motion for that?

5 MS. GUZMAN: Yes, Your Honor.

6 THE COURT: And pursuant to the terms of the plea
7 agreement, I think there is no objection to a preliminary order
8 of forfeiture?

9 MR. PUGH: There is not, Your Honor.

10 THE COURT: So, Ms. Guzman, if you could submit a
11 proposed order on the forfeiture allegation, that motion's
12 granted, and we'll enter a preliminary order of forfeiture as
13 part of the judgment.

14 MS. GUZMAN: Thank you, Your Honor.

15 THE COURT: What are the parties' positions about a
16 fine? The Probation Office has recommended a fine of \$50,000.

17 What's the government's position about a fine?

18 MS. GUZMAN: The government agrees with that, Your
19 Honor.

20 THE COURT: Mr. Pugh, or whichever member of the
21 defense team is addressing it?

22 MR. PUGH: I think that we'd like to withhold our
23 position until we can resolve the issue in terms of
24 restitution. I think that that does affect a fine, considering
25 Mr. Harris' -- his ability to pay will not exist.

1 So to the extent that the Court feels a fine is
2 appropriate, under the circumstances, since I haven't seen any
3 of the losses in terms of restitution, it's hard to speak to
4 that issue. I hope you can understand that.

5 THE COURT: I do understand that, but I have to make
6 a decision about a fine today. And, as the lawyers know,
7 restitution is not treated as satisfaction of a fine or any
8 other penalty.

9 MR. PUGH: Our position is that Mr. Harris is not
10 going to be in any position to pay a fine. There's a large
11 civil lawsuit also pending against him due to these conducts,
12 and so he's not going to be in a position. And, of course, I
13 think the Court's well aware that upon his release, his
14 employment options are going to be incredibly limited.

15 So I do not see this as a case where a fine in the
16 amount of 50,000 is appropriate based on his ability to pay.

17 THE COURT: Okay. I will take that under advisement
18 and resolve the issue of the fine when I impose sentence at the
19 end.

20 But let's talk about special assessments. There will
21 be a total of \$100 per count, for a total of \$200, in special
22 assessments.

23 Then I do find that Mr. Harris is not indigent, and
24 as a result, there is an additional \$5,000 per count assessed
25 pursuant to the Justice For Victims of Trafficking Act, 18

1 U.S.C. Section 3014.

2 And then there is the assessment, under 2259A(a)(2),
3 of up to \$35,000, for which I am supposed to consider the
4 3553(a) factors and the 3572 factors.

5 And I appreciate that there is some uncertainty about
6 Mr. Harris' future income and assets and earning capacity, but
7 he does have a current positive net worth, as reported in the
8 PSR, which would be sufficient to pay this assessment.

9 This assessment is supposed to be in place to
10 contribute to the Child Pornography Victims Reserve Fund, which
11 would be appropriate in a case such as this. And this special
12 assessment has a higher priority and disbursement than a fine.

13 So I am considering imposing the special assessment,
14 under this provision of the Act, of up to \$35,000. I will
15 resolve that at the end, after I have heard all of the
16 arguments about the 3553(a) factors. But I am flagging that
17 for the parties now.

18 I think that resolves or at least sets the table for
19 the preliminary issues. And with that, we can now turn to the
20 formal presentations from the parties.

21 And, as I said, I'll have the defense go first. Mr.
22 Pugh, how would you like to proceed?

23 MR. PUGH: Judge, Mr. Herman is going to ask that the
24 witness be sworn.

25 MR. HERMAN: Judge, good morning. Ms. Cynthia Short

1 will testify. She's been the defense mitigation expert
2 throughout the case.

3 And as a brief preview, we will be introducing
4 material that has been submitted to the Court in advance as
5 attachments to the defense version, as well as in the binders
6 that have been delivered to the Court and the government.

7 It is a lengthy presentation. I will do my best to
8 streamline. We are ending with selections of the videos that
9 we have submitted to the Court. And I have advised the
10 government, Ms. Guzman, about the nature and the length of the
11 presentation in case there's anyone in the courtroom who may
12 not want to be present for it.

13 THE COURT: What's your estimate for how long the
14 presentation is?

15 MR. HERMAN: Hour and a half. And the video is maybe
16 another half an hour.

17 THE COURT: Well, let's get started.

18 And let me just say that you, on behalf of the
19 defense, have submitted a lot of materials in writing and by
20 video, and I have read them all. It won't be particularly
21 useful to me to retread ground that's already in all the
22 filings.

23 And so if I interrupt and say, "I think this subject
24 is adequately covered in what you have submitted," again, I am
25 not -- I don't mean to be rude, but I want you to use your time

1 effectively to, frankly, the audience that matters.

2 MR. HERMAN: Correct.

3 THE COURT: Which is me.

4 MR. HERMAN: We'll take that direction in stride and
5 adjust accordingly. We do think that Ms. Short, given her
6 background and her expertise, is necessary to contextualize
7 where some of this material came from, and we'll focus on those
8 particular aspects. It may not be apparent from the face of
9 the documents and videos themselves.

10 THE COURT: Understood. And I may very well have
11 some questions of either Ms. Short or of counsel during your
12 actual argument. So that's all reasonable and appropriate.
13 And why don't we get started.

14 Ms. Short, why don't you take the witness stand. And
15 if you want, you can set those books on the bench. I think
16 you'll be able to reach them.

17 THE WITNESS: Yes.

18 THE COURT: And please raise your right hand.

19 (Witness duly sworn.)

20 THE COURT: Please be seated.

21 THE WITNESS: Judge, may I take off my mask?

22 THE COURT: I think you might as well just keep the
23 mask on.

24 THE WITNESS: Okay.

25 MR. HERMAN: And, Judge, I should have asked. May I

Short - direct by Herman

23

1 approach to the podium?

2 THE COURT: You may.

3 MR. HERMAN: Thank you.

4 THE COURT: And you may proceed.

5 MR. HERMAN: Thank you.

6 May we please have the presentation published?

7 THE COURT: I think it's on the screens.

8 MR. HERMAN: Okay. Great. Thank you.

9 CYNTHIA SHORT, DEFENSE WITNESS, SWORN

10 DIRECT EXAMINATION

11 BY MR. HERMAN:

12 Q. Ma'am, could you please identify yourself for the Court.

13 A. My name is Cynthia Short.

14 Q. And, Ms. Short, what do you do for a living?

15 A. I am an attorney, and I am also a mitigation specialist.

16 Q. Where are you licensed to practice?

17 A. I am licensed to practice law in the state of Missouri.

18 Q. And what's your formal education?

19 A. I have a law degree from St. Louis University, and I have
20 an undergraduate degree from St. Mary's College in Notre Dame,
21 Indiana.

22 Q. Okay. And do you currently own your own mitigation
23 profession --

24 A. Yes.

25 Q. -- or professional company?

Short - direct by Herman

24

1 A. Yes. I have a company called CLS Mitigation And Consulting
2 Services in Kansas City, Missouri.

3 Q. And do you have staff that work for you?

4 A. I do. I have a group of social workers and others who work
5 for me, yes.

6 Q. Okay. What's your role in this case?

7 A. I was approached to work in this case as a mitigation
8 specialist.

9 Q. And could you tell the Court what a mitigation specialist
10 is?

11 A. So a mitigation specialist is a person who comes in and
12 works on -- frankly, Judge, on sentencing cases. We look at
13 the background of individuals who are facing sentencing,
14 whether it's in a capital context, which is where most of my
15 background lies, or in a noncapital context, such as Mr.
16 Harris' case, and we take a look at the individual in all
17 aspects of their life, their biopsychosocial history, by
18 interviewing witnesses, collecting records, really trying to
19 understand the individual's life from birth to present.

20 Q. Is there a general process that you implement in your
21 mitigation process?

22 A. So every case is approached the same. We start with
23 conversations, certainly, with the attorneys, but we really
24 focus on the client. I begin my work directly with the client.
25 And I met with Mr. Harris on many occasions.

Short - direct by Herman

25

1 I employ a team approach. So there's another
2 mitigation specialist in my office who worked on the case, and
3 her name is Kate Siska. She was in the field. And then I had
4 another woman, a documents clerk, and her name is Rachel
5 Brasel.

6 So a large part of all of these cases is the
7 collection of records, of history. And so any document that
8 has Mr. Harris' name on it we pursued, whether it was an
9 education record, a medical record, a disability record,
10 anything that would tell us about his life history.

11 Q. You mentioned earlier meeting with Mr. Harris. Is that
12 correct?

13 A. Yes.

14 Q. Where did you meet with Mr. Harris?

15 A. All my meetings with Mr. Harris were in the Metropolitan
16 Correctional Center.

17 Q. And how many times did you meet with him after you were
18 retained as a mitigation expert in this case?

19 A. So over the last 22 months, I have met with Mr. Harris on
20 14 occasions.

21 Q. About how many hours have you spent with Mr. Harris?

22 A. Approximately 70.

23 Q. 70? 7-0?

24 A. 70 hours, yes.

25 Q. And in terms of the records that you have collected, Ms.

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1 Short, could you describe the records that you collected in
2 this particular case?

3 A. Yes. So I'm sure, Judge, you have noticed at the back of
4 each of the chronologies, there's a list of sources. And so
5 the records are everything from birth certificates to birth
6 records, educational records from elementary school, middle
7 school, high school, from his junior college, also Social
8 Security records. So any record that we could find that,
9 again, had his name on it and would provide us information
10 about his development, his walk in life.

11 Q. Did you also, in the course of your work on this case,
12 review the discovery material that was produced by the
13 government?

14 A. Yes. Part of mitigation is to understand the context that
15 brings the individual to the courthouse. And so in that
16 context, I did review the discovery.

17 Q. So you were aware of the statements that were made against
18 Mr. Harris?

19 A. I was.

20 Q. And you were aware of Mr. Harris' own statements?

21 A. Yes.

22 Q. And you were aware of the guilty plea in this case,
23 correct?

24 A. Yes. I followed the case and discussed the case as it's
25 progressed with counsel and with Mr. Harris.

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1 Q. And you're also a lawyer with experience in criminal law,
2 correct?

3 A. Yes.

4 Q. So you -- were -- is it fair to say you were reviewing the
5 material with that eye as well in addition to being a
6 mitigation specialist?

7 A. Yes. As I said, I am also a criminal defense attorney. So
8 in addition to my mitigation work, I also represent individuals
9 in criminal cases in the state of Missouri.

10 Q. Okay. Now, you mentioned also, as part of your general
11 process, that you have interviewed individuals in this case; is
12 that correct?

13 A. Yes. Yes, we -- yes.

14 Q. Are some of those individuals actually sitting in this
15 room?

16 A. Yes.

17 Q. Okay. About how many people have you inter -- you and your
18 team -- and when I say "you," I mean your team.

19 A. Yes.

20 Q. Have you interviewed in this case?

21 A. In excess of 70.

22 Q. Okay. And did you collect letters?

23 A. We did.

24 Q. And did you collect or create videos?

25 A. We did.

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1 Q. Okay. Ms. Short, you've got two binders up there, correct?

2 A black binder and a white binder?

3 A. I do.

4 Q. Okay. You're familiar with those binders?

5 A. I am.

6 Q. And you're aware that those binders have been provided to
7 the Court and the government?

8 A. Yes.

9 Q. Does the black binder contain all of the letters that you
10 have -- you and your team have collected, as tabbed in that
11 binder?

12 A. Yes.

13 Q. Now, when you approach an interview subject, do you tell
14 them about what the charges are, or the allegations, in a
15 particular case?

16 A. Yes.

17 Q. Okay. Is that type of transparency important when you're
18 approaching individuals?

19 A. Yes.

20 Q. Why?

21 A. Well, I think it's very important because you want to make
22 sure that the people that are participating, particularly in
23 writing character letters to a court, that they understand the
24 serious nature of the offense, so that when they are providing
25 or supporting -- providing support for the individual, like Mr.

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1 Harris, that they're doing it knowingly.

2 And so, as I sat down with family members, cheer
3 family members, students, teammates, it was important for them
4 to understand the seriousness of the allegations against Mr.
5 Harris before they decided whether or not that they would write
6 a letter of support or participate in the video project.

7 Q. And in the discussions after -- with those interview
8 subjects, after telling them about the serious nature of the
9 charges, did the subject of whether or not Jeremiah could
10 return to their homes ever come up?

11 A. Yes.

12 Q. Did -- let me take one step back.

13 After explaining the serious nature of the charges to
14 your interview subjects, did anybody refuse to talk to you?

15 A. No, no.

16 Q. And after having those same discussions and talking about
17 Jeremiah's eventual release from custody, did anybody ever tell
18 you that he could not return to their homes?

19 A. Yeah, home-planning in cases that are noncapital is often a
20 subject of discussion because it is of interest to me, in terms
21 of being able to present to a court or to the defense team or
22 to the prosecution, what kind of home plan would be available
23 to Mr. Harris or someone in his position.

24 And so in the discussions with the family, it was
25 important to know who would provide a home knowing the

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1 conditions of that kind of opportunity. And so it was
2 important for people to be very, very aware, have their eyes
3 open. And what I found was that there was a large number of
4 people who were willing, under these circumstances, to offer
5 Mr. Harris a home.

6 Q. How long have you been in the mitigation business?

7 A. Since 1994.

8 Q. And in a case of this -- and you have also done capital
9 cases?

10 A. Yeah. The majority of my work has been in capital work.

11 Q. Okay. And in noncapital cases, when there's an opportunity
12 for release, have you ever encountered that sentiment in any of
13 your work?

14 A. This has been a unique investigation in many respects. But
15 I think that the outpouring of support for this young man has
16 been remarkable. And I have to say, Judge, that I have not
17 seen this kind of support for any single individual in my
18 career.

19 Q. Now, you spoke about creating -- well, in your collection
20 of records, Ms. Short, is there any way that you synthesized
21 the records into a kind of digestible document or way to
22 understand them?

23 A. So when I began my work in capital litigation, one of the
24 things you learn very quickly is that capital litigation is
25 complex litigation, very similar to white collar, because

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1 you're dealing with a large number of documents.

2 So one of the things you have to start to understand
3 is how am I going to organize these documents, how am I going
4 to make them understandable first to me, then to experts, and
5 then to other parties. And so really the best way to do that
6 is to go through each document and put them into a timeline.

7 What we find is that once we start looking at
8 information gathered from records and from witnesses and other
9 subjects, that we have a better understanding of the flow of an
10 individual's life and their life experiences when we're able to
11 put it into a timeline.

12 Q. And that timeline, Ms. Short, is collected in what we're
13 calling the life chronologies?

14 A. And that's what we call them, is life chronologies, yes.

15 Q. And up with you, there's a white binder, correct?

16 A. Yes.

17 Q. Is that white binder -- and you understand that that white
18 binder has been provided to the government and the Court?

19 A. Yes.

20 MR. HERMAN: Okay. And, Judge, since we're not in a
21 trial proceeding, otherwise I'd move them into evidence, but
22 they have been provided in various forms and would like the
23 record to note as much.

24 THE COURT: They are part of a submission --

25 MR. HERMAN: Thank you, Your Honor.

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1 THE COURT: -- and filed with the Court.

2 And let me interrupt to ask a question that popped in
3 my head a few moments ago.

4 Could you give me an example of how you described the
5 seriousness of the charges in this case?

6 THE WITNESS: Yes. Could I give you an example of
7 how I described the seriousness of the offenses?

8 THE COURT: Right. So the question was: When you
9 approached people, did you tell them the seriousness of the
10 allegations? And you said yes.

11 THE WITNESS: Yes. So --

12 THE COURT: But what does that mean? There are a lot
13 of details, and, frankly, it is unclear to me --

14 (Witness nods.)

15 THE COURT: -- how much people knew about the
16 underlying facts of this case --

17 THE WITNESS: Right.

18 THE COURT: -- when they submitted materials. And I
19 appreciate what you're saying about how your process works, but
20 if you can --

21 THE WITNESS: Yes.

22 THE COURT: -- maybe give me a little more context
23 for that, that would be helpful to me.

24 THE WITNESS: Yes. With understanding and preserving
25 confidentiality, I explained that there were both offenses that

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1 involved the exchange of pictures over the internet,
2 particularly with Mr. Harris soliciting those, asking boys that
3 were underage, when he was in late adolescence or in college,
4 for pictures that were inappropriate, that is, nudes, both
5 their genitalia as well as their buttocks.

6 I also explained that there had been invitations for
7 those boys to meet in places during competitions, so that there
8 would be contact between him and underage boys; that there was
9 an occasion where, in fact, one of the boys and Mr. Harris had
10 had sexual contact that was inappropriate based upon their
11 ages.

12 So I explained both the contact and the noncontact.

13 THE COURT: And so your description of the contact,
14 though, did not include that the minor in that instance was
15 reporting that it was not consensual?

16 Because you described it as it was inappropriate
17 because of the age difference, but there are facts in this
18 case that --

19 THE WITNESS: Well, what I would --

20 THE COURT: -- go beyond that.

21 THE WITNESS: -- describe -- yeah. What I would
22 describe to them is that it was a crime, and that the -- that
23 Mr. Harris was the one that asked for the in -- the minor to
24 come to the bathroom, that that was certainly inappropriate,
25 that that was a relationship that had been going on for a

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1 couple of years in terms of the two of them communicating and
2 nudes being exchanged. That that is a crime. And particularly
3 with a minor, that that would be statutory rape. So explained
4 those things to them.

5 THE COURT: Thank you. You can proceed.

6 MR. HERMAN: Thank you.

7 BY MR. HERMAN:

8 Q. Ms. Short, before I proceed to the next section here, in
9 your background, is there anything in your personal life that
10 gave you greater insight into this particular case?

11 A. Well, in addition to -- well, ironically, I had experience
12 in this particular community. I am also a cheer mom. My
13 daughter participated in cheer from 2005 until 2015, including
14 in the all-star cheer community. She cheered for a team called
15 KC Cheer. She's one year older than Mr. Harris, and so was
16 competing at the same competitions and at the same level as Mr.
17 Harris and his team at Illinois Cheer Elite.

18 Q. So when you reviewed the discovery or spoke with interview
19 subjects and they talked about particular teams and events,
20 were you familiar with those locations and competitions?

21 A. I had, in fact, been at all of those competitions,
22 including in Orlando and Dallas and Fort Worth and other
23 locations, as a result of our involvement in cheer.

24 Q. Okay. So effectively, you spoke the same language?

25 A. Yes.

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1 Q. But you did not know Mr. Harris at all?

2 A. I did not know and was not really familiar with ICE.

3 Q. Okay. Where we left off before the additional questioning
4 was creating these life chronologies.

5 In the white binder that you have with you, those
6 have the life chronologies, correct?

7 A. They do.

8 Q. And the life chronologies are divided into separate
9 chapters, correct?

10 A. Yes.

11 Q. Those chapters are -- would you describe what -- the
12 differentiation between the chapters?

13 A. So the chapter 1, which is not included, would be a
14 chronology that predates Mr. Harris' birth. And so it's about
15 his birth family.

16 Looking at someone's family is important. So we
17 start with that as chapter 1, but it's not included.

18 Then chapter 1 is his life, his developmental life
19 from 0 to 10. Chapter 2 is 11 to 15, then 16 to 18, and,
20 finally, 18 to 21.

21 Q. And is there a reason why the chapters were divided into
22 those different age categories?

23 A. Yeah. So we're looking at developmental differences, you
24 know, in terms of a person's developmental and cognitive
25 growth.

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1 Also, we had a lot of records in this particular
2 case. And it's easier, I think, to understand, again, a
3 person's life path by looking at it in smaller chunks.

4 Q. And your investigation for chapter 1 effectively began at
5 birth, correct?

6 A. Yes.

7 Q. And what type of records did you collect regarding that
8 starting point?

9 A. And so this is a good example of kind of looking at the
10 different data points and how they come together.

11 And so you start with the birth certificate, the
12 birth records, and also interviews of family members,
13 particularly his sisters, his brother, provided information
14 about his birth.

15 Q. And what we're seeing on the screen right now is an actual
16 screenshot of the first page of -- the first chapter of the
17 life chronology in the white binder, is that correct?

18 A. Yes.

19 Q. And understanding that the Court has reviewed all of this
20 material, Ms. Short, could you briefly summarize what you
21 identified based on the birth records, collateral interviews,
22 and other documentation regarding any challenges that Jeremiah
23 had at the very outset of his life?

24 A. So Jerry was born prematurely and to a mother who was 40.
25 She had had gestational diabetes. And he was born with

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1 respiratory distress, was put on a ventilator and began his
2 life in the ICU, and was discharged approximately five days
3 after his birth.

4 Q. And we'll touch on some of those developmental challenges
5 that Jeremiah had, but is it fair to say, in the collection of
6 hundreds and hundreds of pages of records, numerous collateral
7 interviews, disability records, that those challenges continued
8 with Jeremiah through the rest of his life?

9 A. Well, so what we see, particularly from a health
10 standpoint, that the respiratory distress will continue. We
11 will see him admitted to the ER on multiple occasions for
12 asthma.

13 And then from the very beginning of his life, we will
14 see developmental delays, both from the standpoints of early
15 childhood markers, but as he moves into school, we'll see
16 delays in speech. ADHD will be diagnosed eventually. And
17 we'll see social and emotional delays which will track with him
18 throughout his childhood.

19 Q. You mentioned Jeremiah's mother. What was her name?

20 A. Her name was Lizzie Bowman.

21 Q. Is it fair to say that Ms. Bowman, there were positives and
22 negatives to her relationship with Jeremiah?

23 A. Yes.

24 Q. And your assessment of that nature is based on numerous
25 interviews that you have done with immediate family members,

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1 correct?

2 A. Yes.

3 Q. Okay. Can you summarize what the positive aspects were
4 from big picture?

5 A. Well, of course, like any mother, Lizzie loved Jerry very
6 much, and they were inseparable. He was a late baby for her,
7 that the -- his sister was 12 years older and other siblings
8 were quite a bit older than that. And so she paid special
9 attention to him.

10 I think she did two things that were really important
11 to his development. One was to get him admitted into the high
12 school in Aurora, Illinois, which was really important to his
13 development. And then, secondly, was allowing him to get into
14 cheer when he was first six years old and then again in fifth
15 grade.

16 Q. And what about the negative aspects? Is it possible to
17 summarize, based on your interviews, rather than going through
18 the actual letters, is it -- what are some of the negatives
19 that stand out to you?

20 A. Lizzie was -- and I think family members really talked
21 about this first. She had a very different kind of bond with
22 Jerry, and it was, in many ways, inappropriate.

23 She babied him from the time he was born until he was
24 really in middle school. She --

25 Q. Can I stop you? When you say "baby him," is there anything

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1 that sticks out in your mind?

2 A. She didn't let him grow naturally in his developmental
3 stages. So she was still babying him as if he were a toddler
4 when he was in middle school. She was still wiping his butt
5 when he was in middle school. She was feeding him things that
6 were very -- not very nutritious, and he was gaining weight
7 until he was morbidly obese.

8 She was also -- instead of providing Jerry the
9 privacy he needed as he was growing up, the two of them were
10 sharing a couch as a bed in a public space within the home.
11 And then later on when they moved into a hotel, the two of them
12 shared a bed in a motel that was really designed for two
13 people, not six, which is how many lived there.

14 Q. Did you interview any family members who said anything
15 about Jeremiah using a pacifier until late in life?

16 A. Yeah. Jeremiah --

17 Q. Or late childhood?

18 A. -- used a pacifier until he was about -- until he was eight
19 years old and then -- and sucked his thumb until he was twelve.

20 The other thing that was unusual was that even in
21 evaluations that were conducted with Jeremiah through
22 elementary school, when asked about who his friends were, he
23 would say that it was his mother.

24 His sister also commented that Jerry didn't really
25 have same-age peers, that his friend, his main friend, was his

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1 mother.

2 Q. And this sister was who?

3 A. Mahogany. Mahogany Harris.

4 Q. Mahogany submitted a letter to the Court, correct?

5 A. She did.

6 Q. Okay. Do you recall Mahogany or any other family members
7 talking about how they observed Lizzie isolating Jeremiah from
8 the rest of the family and the world generally?

9 A. Yes. And it was something that they were concerned about.

10 And this was particularly problematic when the family lost
11 their home and moved into a motel.

12 Q. Okay. Did you also speak with family members about
13 Jeremiah's father?

14 A. Yes.

15 Q. Okay. What's Jeremiah's father's name?

16 A. His name is N.H. Harris.

17 Q. Do you know what N.H. Harris stands for? N.H. stands for?

18 A. No.

19 Q. In your interviews with Jeremiah, does he know his father's
20 real name?

21 A. No.

22 Q. Did your investigation and interviews of immediate family
23 members uncover any incidents of abuse between N.H. and other
24 family members?

25 A. Yes.

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1 Q. Did that abuse also include incidents of physical abuse
2 directed towards Jeremiah?

3 A. Yes.

4 Q. Did you interview others and corroborate these incidents of
5 abuse?

6 A. Yes.

7 Q. Could you briefly explain to the Court if there was one
8 incident that particularly stuck out?

9 A. Yeah. So when Jeremiah was eight or nine years old, there
10 was an incident that happened within the home in which his
11 father beat him severely enough that for Jeremiah, that broke
12 his spirit, particularly as it pertained to the relationship
13 with his father. He really felt as if he was now detached from
14 his father, whose presence in the home was more absent than
15 present, even when he was physically in the home.

16 A lot of the abuse N.H. perpetrated in the home was
17 directed more at Deandre, but that was something that was also
18 witnessed by Jeremiah and made him afraid.

19 Q. In your -- in the course of your investigation, did you
20 determine whether or not Jeremiah ever developed a relationship
21 with his father?

22 A. He did not.

23 Q. Okay. In fact, in the life chronology, do you recall a
24 financial aid document where Jeremiah said words to the effect
25 that, "I have a legally forced and strained relationship with

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1 my biological father and only have a relationship with him due
2 to the death of my mother"?

3 A. Yeah. And I think significantly also that the many people
4 who loved and supported him in the cheer community and who had
5 watched him since he was 11 years old were unaware that he had
6 a father until the death of his mother at the age of 16.

7 Q. Did your investigation regarding -- turning back to Lizzie.
8 Did your investigation reveal anything regarding how she
9 instructed Jeremiah to keep secrets or anything?

10 I don't want to put -- in your own words or the words
11 of the people that you interviewed, was that a theme?

12 A. Yeah. So one of the things with Lizzie -- and this was
13 certainly something that was repeated through many family
14 members. Her daughter, Tomeika, her niece -- or grandchild, I
15 guess, Deja, Willie Bowman, Mahogany, and others, is that
16 Lizzie was a secret-keeper. I think most pronounced was the
17 fact that when they lost their home, when they were evicted,
18 when Jeremiah was in the eighth grade, she really disappeared
19 from the family and did not ask for the help that they needed,
20 which really stranded this family. And she convinced her son
21 Jeremiah that the rest of the family was not available to help
22 them.

23 And so I think one of the things she really taught
24 Jeremiah was not to ask for help when you need it. And she
25 also taught him that there were many things that were shameful

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1 for which you did not tell people outside of your home. And I
2 think that those were lessons that were not helpful to this
3 young man.

4 Q. In the course of collecting records, did you also collect
5 school records?

6 A. Yes.

7 Q. And those school records, did they go back -- how far back
8 did they go?

9 A. All the way back to kindergarten.

10 Q. And did those records that you collected and reviewed and
11 made part of the life chronology indicate anything regarding
12 developmental concerns regarding Jeremiah?

13 A. Yes. So it's a little bit unusual to see the number of
14 times that Jeremiah was tested over the course of his
15 educational career. Ms. Bowman was very attentive to
16 Jeremiah's school and education, and she repeatedly asked for
17 testing.

18 Very early on in the testing, he was identified as a
19 child who needed special education, and that began with speech
20 therapy.

21 I think consistently through the education, we saw
22 that even as young as six years old, he was diagnosed with
23 depression. And one of the things that the school was
24 consistently worried about were family stressors within the
25 home.

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1 Q. So is -- and I have displayed on the screen a document.

2 Do you recognize this to be another screenshot from
3 the life chronology?

4 A. Yes.

5 Q. Okay. And it indicates -- did you actually speak with his
6 kindergarten and/or first grade teacher?

7 A. I spoke with his first grade teacher, yes.

8 Q. And the records indicated that he was displaying as
9 nonverbal?

10 A. Yes. He entered kindergarten nonverbal. And, in fact, his
11 mother was afraid that he was autistic going into school.

12 Q. Now, in summary, Mr. Harris -- did your investigation
13 uncover whether or not Mr. Harris would continue to have IEPs
14 throughout his school career?

15 A. All the way through high school.

16 Q. Okay. And could you explain what type of testing or
17 summarize what type of testing was recommended in these IEPs or
18 that actually occurred?

19 A. Yeah. So a lot of the times, there was neuropsychological
20 testing. So they would do IQ testing, they would do
21 educational testing. They'd look at his reading abilities, his
22 verbal abilities, his math abilities, his comprehension
23 abilities. They were also looking at emotional and cognitive
24 abilities. And oftentimes they -- as I said before, they were
25 diagnosing him most often with depression and also that he was

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1 emotionally and socially immature.

2 Q. Okay. When you say "emotionally and socially immature,"
3 was -- did the records contain a comparison between Mr. -- or
4 between Jeremiah and his same-age peers?

5 A. Yes. So consistently starting in elementary school, what
6 we saw was that Jeremiah was -- identified year after year as
7 being behind his same-age peers when it came to social and
8 cognitive development.

9 THE COURT: Would you agree that, in summary, that
10 the educational records show a fair amount of interventions and
11 review and testing and plans throughout his educational career?

12 And do you have a comment on how those interventions
13 relate to what you were saying earlier about how his mother
14 wouldn't ask for help, yet in some areas, it seemed she was
15 actually quite a fierce advocate and persistent seeker of
16 assistance, at least with respect to educational resources,
17 which included, as you mentioned, neuropsychological
18 evaluations, other kinds of testing?

19 And as well on the -- and I imagine that Mr. Herman
20 will get to this as well, but wrapped up in this is also the
21 Social Security efforts to obtain benefits and assistance.

22 So I guess, to summarize, would you agree that, at
23 least along some axes, there is quite a demonstrated and
24 persistent record of intervention and seeking of help and help
25 being provided?

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1 THE WITNESS: I --

2 THE COURT: While at the same time, there is this
3 other dynamic that's going on that is an absence of other kind
4 of prosocial interventions and development?

5 THE WITNESS: Yes.

6 THE COURT: A fair summary? And do you have any
7 comment on how to reconcile that tension?

8 THE WITNESS: Yeah. So I do agree. And, as I said
9 earlier, I think that in the area of his education, and
10 particularly as he gets through middle school and her decision
11 to get him into this Waubonsie High School, I think the fact
12 that she was there and talking to teachers and participating in
13 IEPs and insisting on testing, even when the schools didn't
14 want to, was one of the positive things that she did within the
15 context of his education.

16 I don't think she followed through oftentimes when
17 the school wanted him, for example, to get therapy outside of
18 the school, or they felt he needed medication. They often --
19 there was, for example, Judge, at one point where they referred
20 her to Division of Family Services because she wasn't getting
21 the medication that he needed, particularly for the depression
22 that they saw.

23 There was also some identification of the -- what
24 were significant family stressors within the home. And one
25 solution that they offered at one point for this little boy,

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1 who was so worried about his mother and his mother's care, that
2 one of the accommodations was to allow him to call home every
3 day to make sure that she was okay.

4 So I think that there was many things she was doing
5 in the school buildings to try to help him, but there was a
6 lack of follow-through at home. And some of the things that
7 were happening at home were interfering with what she was
8 hoping to achieve at the school, if that makes sense.

9 THE COURT: Thank you.

10 Mr. Herman, you can continue.

11 MR. HERMAN: Thank you, Judge.

12 THE COURT: And I also hope that through my question,
13 I have indicated to you that I have read these materials --

14 MR. HERMAN: Yes. I'm trying to --

15 THE COURT: -- and I am familiar with them.

16 MR. HERMAN: I understand, Judge. Thank you.

17 BY MR. HERMAN:

18 Q. Just -- and to underscore one point, Ms. Short, have -- in
19 your record review, was there any indication of ongoing
20 psychiatric care for Jeremiah?

21 A. Between 2005 and 2010, he was seeing a Dr. Pecan, or Pecan,
22 and she was providing Concerta. That was discontinued against
23 the recommendation of testers in school.

24 He also regularly saw a pediatrician, which he saw
25 every single week because of the severe obesity that he had and

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1 the ongoing problems with the asthma, which caused several
2 hospitalizations for him as a young man.

3 Q. So 2005 to 2010, he's between five and ten years old?

4 A. Yes.

5 Q. And the concern is for ADHD?

6 A. Typically, that's what that's given for.

7 Q. And there was no other indication in your review of all of
8 the records, including his childhood medical records, that he
9 received any type of therapy that -- on an ongoing or material
10 basis?

11 A. No therapy, no.

12 Q. Now, at some point, you mentioned earlier that Mr. Harris,
13 Jeremiah, and his family were evicted from their home?

14 A. Yes.

15 Q. Okay. And briefly, what happened after that? Just if you
16 could --

17 A. They were evicted when Jeremiah was in eighth grade, and
18 they moved into a hotel, a Ramada Inn. And they initially
19 during that summer, as they were trying to figure out what they
20 would do, stayed at the Ramada during the week and then on the
21 weekends would bounce around until they could get back into the
22 Ramada on Monday.

23 Q. And did they stay at the Ramada or go into another motel?

24 A. Eventually, they landed at the LaQuinta Inn.

25 And we're talking about a family of six. And they

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1 would stay in one room, which had two double beds, a small
2 microwave oven, a small refrigerator -- no kitchenette -- and a
3 bathroom. And so six people, when Deandre joined them, lived
4 in this small space with two double beds.

5 Q. How many years did the family stay in the LaQuinta Hotel?

6 A. They finally left the LaQuinta Hotel in February of 2017.
7 And they got there, I believe, in 2012.

8 Q. And during this time period, Jeremiah's living with
9 multiple family members, still going to high school and middle
10 school and --

11 A. Yeah. So it was at the end of -- it was middle school.
12 And then so all through high school, his high school career, he
13 lived in the LaQuinta Hotel until the last couple of months of
14 high school.

15 Q. And from speaking with immediate family members who were
16 actually in that hotel room with Jeremiah, did you understand
17 there to be a kitchen?

18 A. There was not.

19 And so there was a lot of food insecurity during this
20 period of time. There was a lot of chaos in terms of the
21 relationships between the people there. And then, of course,
22 Lizzie becomes ill, and her health will slowly deteriorate over
23 the period of time they lived in this hotel.

24 Q. During this time period, were -- of Jeremiah's
25 middle-school age, in particular, and early high school, did

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1 your investigation reveal any evidence of bullying or abuse by
2 others?

3 A. Yes. So Jeremiah began to experience severe bullying
4 starting in about the fifth grade.

5 Q. For what reasons?

6 A. For a number of reasons. One was because he was severely
7 overweight. And another reason was because he was immature.
8 He also had significant hygiene issues. He also was a kid
9 that, you know, wore Goodwill clothes and just didn't fit in
10 with the other kids, which was something that all of his
11 siblings, Mahogany, Deandre, Deja, who you've got pulled up
12 here, all recognize that this was a kid that just didn't fit in
13 with the other kids. And so the bullying was really
14 significant and caused a great deal of stress for Jerry.

15 Q. I want to shift gears slightly and briefly touch on if your
16 investigation also included collecting information about any
17 sexual abuse that Jeremiah personally suffered during this time
18 period.

19 A. Yes.

20 Q. Okay. Did it also uncover whether or not he was ever
21 exposed to online pornography?

22 A. Yes.

23 Q. When did that first occur?

24 A. So when the Harris-Bowman family lived in Bolingbrook in
25 their house, there was a computer in the house that was in a

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1 public space and was primarily used by Mahogany Harris, who was
2 12 years older than Jerry, but Jerry also had access to the
3 computer.

4 Neither of the parents, N.H. or Lizzie, used the
5 computer, nor did they have any real skills to monitor the use
6 of the computer by Jerry.

7 Q. And did your investigation include collecting information
8 about Jeremiah watching, in particular, gay pornography
9 eventually?

10 A. Yeah. So Jeremiah started getting on the computer really
11 to look up cheer videos. He -- Mahogany had been a
12 cheerleader, and so his initial interest in cheer was
13 introduced by her involvement in cheerleading.

14 And then through the computer, he started to watch
15 whatever cheerleading events he could find there, on YouTube,
16 et cetera. But eventually, like a lot of kids, he found
17 pornography. He also found gay love stories, which was
18 something that he really loved to watch. And so those were two
19 other things that he started to watch on the internet.

20 Q. Did you -- was another thing that he learned from this
21 unsupervised exposure online involve sending nudes of himself?

22 A. So as a -- so as an 11-year-old, he, while on the internet,
23 was befriended by an individual in Miami, Florida, and that
24 individual became his friend, or he thought that the individual
25 was his friend, and eventually the conversations turned to

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1 exchanging nudes.

2 Jeremiah was not familiar with that as an
3 11-year-old. And so this individual first sent him nudes and
4 then instructed him how to send nudes back to him.

5 Jeremiah really thought that this guy was his
6 boyfriend and started to investigate how he might get down to
7 Miami to visit him.

8 Q. And how old was Jeremiah at this time?

9 A. He was 11.

10 Q. Were there any incidents of Jeremiah being the victim of
11 contact offenses?

12 A. Yes.

13 Q. When -- how old was he at the time of the first contact
14 offense?

15 A. 13.

16 Q. How old was the perpetrator?

17 A. 19.

18 Q. Was there any relationship between the two? How did they
19 know each other?

20 A. This was an individual that he'd seen at a cheer gym called
21 ICC.

22 Q. Was there a second incident of sexual abuse?

23 A. Yes.

24 Q. How old was Jeremiah at that time?

25 A. 15.

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1 Q. Who was the perpetrator?

2 A. It was a stranger. It was a cab driver.

3 Q. How -- based on your investigation and your interviews, how
4 did they interact? Or how did they come to be together?

5 A. So in the fall of 2015, when Jeremiah was 15 and a junior
6 in high school, his mother had become progressively more ill
7 and she had to be admitted into the hospital for surgery.

8 Jeremiah was staying with her in the hospital but,
9 because he was a minor, was not allowed to stay overnight. And
10 so the hospital social workers arranged for him to have a
11 voucher for a taxicab to take him back to his hotel. And as
12 that was occurring, the cab driver propositioned him, pulled --

13 Q. And this was propositioned him -- basically sex for money?

14 A. Correct.

15 Q. Okay. And Jeremiah was paid sex to -- or paid money to
16 have sex with the cab driver, correct?

17 A. The individual pulled over and got in the back of the car
18 and had anal sex with him, yes.

19 Q. Now, we've talked a lot about Jeremiah's mother.

20 Her presence had a significant role in his life, and
21 so did her death, correct?

22 A. Yes.

23 Q. When did she die?

24 A. She died in March of 2016 when he was a junior in high
25 school.

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1 Q. And --

2 THE COURT: Before you move on --

3 MR. HERMAN: Yes.

4 THE COURT: -- to that subject, I'd like to move back
5 to the chronology with a timing question that I had --

6 THE WITNESS: Sure.

7 THE COURT: -- in the materials. Because in the
8 chronology, you have some entries that aren't specifically
9 dated. They're just events that are occurring around the same
10 time.

11 (Witness nods.)

12 THE COURT: And I was curious if you had a more
13 precise timing for when Mr. Harris, at age 13, gets in trouble
14 at Pro Athletics for his online communications with a
15 12-year-old, and he is told he's having inappropriate
16 communications and would get in trouble for those
17 communications.

18 When is that event happening in -- so, for example,
19 in relation to the assault, when he was a victim of an assault,
20 which also happened within that same year, but I couldn't quite
21 tell --

22 THE WITNESS: Right.

23 THE COURT: -- from the materials --

24 THE WITNESS: How he before --

25 THE COURT: -- how to situate that --

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1 THE WITNESS: -- or after?

2 THE COURT: -- and if -- correct.

3 THE WITNESS: Yeah. So that's a good example, Judge,
4 in the chronology, is when you have events being reported to
5 you by a reporter, but they don't know exactly the dates of
6 when that happened.

7 And so, as I sit here today, my belief is that the
8 events that you're talking about, between the 13- and
9 12-year-old where he was called in and told that the behavior
10 was inappropriate, happened before the event with the teenager.

11 THE COURT: Thank you.

12 You can proceed.

13 MR. HERMAN: Thank you.

14 BY MR. HERMAN:

15 Q. Focusing -- turning our attention to --

16 THE WITNESS: And just --

17 MR. HERMAN: Yes. I'm sorry.

18 THE WITNESS: Can I say one other thing about that?

19 The one thing that was unfortunate about that
20 counseling that he received at the gym was that his mother was
21 not called in to be counseled as well.

22 I think that it would have been very important for
23 any parent in that circumstance to have been advised that that
24 kind of behavior was going on, and unfortunately the choice was
25 not made to counsel with mother.

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1 BY MR. HERMAN:

2 Q. Thank you. Turning back to Lizzie's death.

3 What was the cause of her death?

4 A. She died of stage 4 lung cancer.

5 Q. And how long had she been ill based on your investigation?

6 A. Well, at least over a year.

7 She was not forthcoming with what the nature of her
8 illness was. And, of course, it is unknown how long she had
9 been aware of her -- the actual status or diagnosis of her
10 illness.

11 Q. And during this time when she was ill and suffering from
12 cancer, was she -- this is the time period when they're living
13 in the LaQuinta Hotel?

14 A. Yes. The -- certainly, the worst parts of her illness are
15 experienced within the context of living in the motel.

16 Q. And Jeremiah's still sharing a bed with her?

17 A. The entire time they lived in the motel, they shared a bed,
18 yes.

19 Q. And he's 16 years old at this time?

20 A. And understand, this is lung cancer and she is receiving
21 treatment. And so he is seeing his mother deteriorate. He's
22 also seeing the effects of the types of cancer treatment that
23 she would have, including nausea, throwing up, the other
24 effects of the medication. He would often lay his head on her
25 chest to see if she was still breathing.

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1 Q. Did his mother leave any type of plan for his care after
2 her passing?

3 A. I think because Lizzie really was not acknowledging her own
4 terminal illness, she did not make any kind of plans for him
5 financially from the standpoint of housing or the continuation
6 of his education.

7 Q. During this time period, in fact right at the same time
8 period of Lizzie's passing, could you describe generally what
9 the role of cheer played in his life?

10 A. What the role of cheer played?

11 Q. Cheer, cheerleading.

12 A. So I think the most poignant example of the role that cheer
13 played for him -- I mean, Jerry, like all of us, was a kid that
14 was looking to be loved. And in his own family, there was a
15 lack of that love except for with his mother. And that was, in
16 large part, a situation that had been created by Lizzie who had
17 caused estrangement between this young man and his family.

18 And so as -- on the day of his mother's death, there
19 was a competition. And Jerry came to the gym prepared to
20 compete, and family members and the coaches told him that he
21 didn't need to compete, that it was perfectly fine for him to
22 not compete, and he said that his mother would want him to
23 compete. And I think really, Judge, that what he wanted and
24 needed was to be surrounded by the love of these people in the
25 cheer community.

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1 And so he took the stage. And I heard from family
2 members, from teammates, and from many of the people that I
3 interviewed that in this large auditorium where this particular
4 competition took place, whether you were a member of the ICE
5 gym or you were a member of the other competitor teams,
6 everyone in the whole auditorium watched him compete, came to
7 their feet, cheered his name, and really surrounded him in the
8 love that they felt for him. And it was a very poignant, you
9 know, moment in his life and I think, you know, what he needed
10 in this very, very sad day of his life.

11 He has said many times to me that he thinks very
12 often of wanting to be with her.

13 Q. Ms. Short, you've interviewed others in the cheer
14 community, and their letters are in there, in the black binder
15 that has been submitted, correct?

16 A. Yes.

17 Q. Is one of those individuals Ernie Valdez?

18 A. Yes.

19 Q. And Mr. Valdez was his long-term coach?

20 A. Yes.

21 Q. Did Mr. Valdez, knowing about the allegations of -- and
22 charges and offense conduct, now did he still have positive
23 things to say about Jeremiah?

24 A. Yes.

25 Q. Now, I want to touch on an issue of Jeremiah's sexuality.

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1 Was this something that, based on your interviews, his
2 immediate family members, your understanding, was that
3 something that he could share with any others in his family,
4 his immediate family?

5 A. So I think Jerry's not different from a lot of adolescents
6 who are gay or LG -- going to get the initials mixed up. But
7 he's not -- he's like a lot of kids in that space.

8 And his mother, in particular, was not going to be
9 open to him being gay, and so it was isolating for him within
10 his family. It was not someplace that he could be open about
11 his identity as it was -- as he was trying to understand it
12 himself.

13 Q. Switching gears.

14 You also participated, in your capacity as a
15 mitigation expert and investigator, in helping identify experts
16 to provide forensic evaluations of Jeremiah; is that correct?

17 A. Yes, yes.

18 Q. And there were, in fact, two forensic evaluations prepared?

19 A. Yes.

20 Q. And are you familiar -- or do you know whether or not those
21 evaluations are in the binder and have been prepared -- or
22 provided to the Court?

23 A. Yes.

24 Q. Okay. We're not going to go through the evaluations, given
25 that everybody 's reviewed them, but, briefly, is one of the

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1 experts Dr. Antoinette McGarrahan?

2 A. Yes.

3 Q. And who is Dr. McGarrahan?

4 A. Well, Dr. McGarrahan is a neuro -- a forensic
5 neuropsychologist from Dallas, Texas.

6 Q. And you know that she provides risk assessments?

7 A. She does, yes.

8 Q. Did you know her before this case?

9 A. Yes.

10 Q. Have you worked with her before?

11 A. Yes.

12 Q. Do you have any knowledge about whether or not she's been
13 qualified as an expert to testify in formal criminal
14 proceedings?

15 A. Yes.

16 Q. Based on your personal knowledge, has she worked with law
17 enforcement before?

18 A. Yes.

19 Q. Do you know where Dr. McGarrahan is right now?

20 A. She's in France.

21 Q. And what is she doing in France?

22 A. She's presenting a paper to -- at a law enforcement
23 conference in the -- in France.

24 Q. And you're familiar that the key takeaways from -- well,
25 before I get to that, the second expert is Dr. Marilyn

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1 Hutchinson?

2 A. Yes.

3 Q. What's her specialty?

4 A. She's a forensic psychologist.

5 Q. And were you familiar with her before this case?

6 A. Yes.

7 Q. Have you, in fact, put her on a witness stand and examined
8 her?

9 A. Yes.

10 Q. Okay. Are you -- her -- and she also arrived at certain
11 conclusions based on reviewing the records and the evidence in
12 this case?

13 A. Yes.

14 Q. Okay. And everything she reviewed is included in the
15 reports that have been submitted to the Court, correct?

16 A. Yes, yes.

17 Q. And is it fair to say that the key takeaways from these two
18 experts are that Jeremiah does not suffer from a sexual
19 deviance disorder?

20 A. Yes.

21 Q. And Jeremiah poses a low risk for recidivism?

22 A. Yes.

23 Q. And you're aware that Dr. McGarrahan included in her
24 analysis the pattern tool that the Bureau of Prisons actually
25 uses?

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1 A. Yes.

2 Q. For risk assessment?

3 A. Yes.

4 Q. And that the consensus from these two experts are that
5 Jeremiah has a strong potential for rehabilitation?

6 A. Yes.

7 Q. And it's fair to say that those are the takeaways from
8 these particular reports, right?

9 A. Yes.

10 Q. Okay. The -- quickly, the diagnoses for Jeremiah presently
11 from Dr. Hutchinson are what, if you recall?

12 A. Major depression and post-traumatic stress disorder.

13 Q. And you also reviewed Bureau of Prisons records in this
14 particular case?

15 A. I have, yes.

16 Q. From Jeremiah's current stay at the MCC?

17 A. Yes.

18 Q. Do those records indicate whether or not he's availing
19 himself to treatment and therapy?

20 A. He has been availing himself to treatment and therapy.

21 Q. Do they show whether or not he's actively participated?

22 A. He's actively participated in both individual therapy with
23 Dr. Watkins as well as group therapy.

24 MR. HERMAN: Judge, I'm skipping forward given the
25 Court's familiarity.

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1 BY MR. HERMAN:

2 Q. Now, you also prepared as an exhibit, your team, an exhibit
3 that was submitted to the Court under seal. We'll call it the
4 Square/Venmo exhibit. Is that correct?

5 A. Yes.

6 Q. Okay. Now, you're aware of certain -- of admissions that
7 Mr. -- that Jeremiah has made regarding payment to 17-year-olds
8 for nude photos?

9 A. Yes.

10 Q. And he's admitted to those, correct?

11 A. Yes.

12 Q. As part of your investigation, did you and your team
13 collect financial information regarding transactions that
14 Jeremiah made during this time period of the offense conduct?

15 A. Well, we took the information that had been provided by the
16 government and looked at every single one of the transactions
17 and who they were made to.

18 Q. Okay. And did you identify -- and you created a chart
19 regarding --

20 A. Yes.

21 Q. -- that information?

22 A. Yes.

23 Q. Okay. You're aware of information that -- or a
24 characterization that Jeremiah used his money from -- after the
25 documentary was published to buy nudes from others?

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1 A. Yes.

2 Q. Is that -- you're aware of that?

3 A. Yes.

4 Q. In your thorough review of the financial records that the
5 government provided, other than the offense conduct present
6 here through Square and Venmo, is that substantiated by the
7 record evidence?

8 A. No. Every other -- every other transaction that was on the
9 Square and Venmo exhibit was made to a college student, that
10 is, an adult or a peer.

11 Q. Okay. Sorry to jump around, but there's one thing I forgot
12 about Dr. McGarrahan.

13 You've reviewed the government's sentencing pleading
14 in this case?

15 A. Yes.

16 Q. Okay. And are you familiar whether or not there's a
17 section in that pleading addressing Dr. McGarrahan's report?

18 A. Yes.

19 Q. And in that section, is it correct that the government
20 faults Dr. McGarrahan for using the word "allegations"?

21 A. Yes.

22 Q. Did you have a -- subsequent to reviewing that pleading,
23 did you have a conversation with Dr. McGarrahan about that
24 criticism?

25 A. Yes.

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1 Q. Did Dr. McGarrahan explain to you why she used the word
2 "allegations"?

3 A. Yes.

4 Q. What did she say?

5 A. So at the time of the evaluation, Mr. Harris had not yet
6 entered a plea, and so the word "allegation" was more
7 appropriate from a legal standpoint.

8 But in terms of the evaluation itself, she considered
9 anything in the government's pleadings to be factual.

10 And so although the word "allegation" is there, she
11 took everything to be true in rendering her opinion and
12 considering the evidence.

13 Q. Did she indicate to you whether or not her opinion would
14 have changed in any manner after Jeremiah had pled guilty to
15 the charges?

16 A. No, because the way in which she conducted the evaluation
17 was to consider all of the factual elements in the government's
18 complaint -- or indictment to be true.

19 MR. HERMAN: Okay. Thank you.

20 One second, please, Judge.

21 (Counsel conferring.)

22 MR. HERMAN: Judge, at this point, we have
23 streamlined the presentation, but we do have some videos.

24 There's one --

25 THE COURT: That's fine. But before you do that, let

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1 me follow up with one question on the subject matter --

2 MR. HERMAN: Of course.

3 THE COURT: -- that you have touched on.

4 Ms. Short, have you had any follow-up conversations
5 with Dr. Hutchinson?

6 THE WITNESS: In terms of?

7 THE COURT: In terms of her report? I mean, because
8 she's not here.

9 I have a question about parts of her report, and
10 either I can ask Ms. Short for her take on my questions or I
11 can direct them to counsel when it's your time for argument.

12 But since you have just touched upon what the experts
13 are saying, I'll --

14 MR. HERMAN: We had a conversation with -- I know
15 that Ms. Short had a conversation with Dr. McGarrahan. I am
16 not sure if there was one with Dr. Hutchinson.

17 She can answer if she knows. If she doesn't know the
18 answer, I think that Mr. Pugh or myself can do our best to
19 address it.

20 THE COURT: So I'll ask the question of you, Ms.
21 Short. And then --

22 THE WITNESS: Okay.

23 THE COURT: -- counsel, you'll know that I have this
24 question on my mind, and you can address it --

25 MR. HERMAN: Thank you.

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1 THE COURT: -- when you're arguing. There's -- and
2 this was on the slide with respect to the lack of any finding
3 or opinion of what the psychologists would term "sexually
4 deviant behavior."

5 But in the reports, there's also the opinion that Mr.
6 Harris is not sexually attracted to children, and I wanted to
7 see if you have any further understanding of what that means in
8 light of the offense conduct in this case. And does it mean
9 that if the offense conduct isn't about sexual attraction, it
10 is about something else?

11 THE WITNESS: Yes.

12 THE COURT: Which could be a lot of different things.
13 But sometimes it's about power and dominance --

14 (Witness nods.)

15 THE COURT: -- as an example. And so I was just
16 wondering if you had a comment about what the experts' opinion
17 about the lack of sexual attraction to children means in the
18 factual context that we have in the case.

19 THE WITNESS: I want to preface this by saying, first
20 of all, that I am not a psychologist.

21 THE COURT: Understood. Which is why I asked if you
22 had any follow-up conversations with the experts that you can
23 then at this point, second- or thirdhand --

24 THE WITNESS: Yes.

25 THE COURT: -- channel what they might be saying

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1 about that, or what they really mean --

2 THE WITNESS: Sure.

3 THE COURT: -- by that, and whether -- frankly,
4 whether it has any value, whether that opinion has any value in
5 a case like this.

6 THE WITNESS: So I think one of the -- I think both
7 experts are looking at -- and I think stated in the reports,
8 looking at things contextually. Also considering that the fact
9 that Mr. Harris is himself an adolescent and looking at the age
10 ranges of the young people that are involved in this case.

11 Also maybe more particularly talking to Dr.
12 McGarrahan. And I think the Court -- might be helpful to know
13 that Dr. McGarrahan regularly does risk assessments in the
14 state of Texas for the government and does a lot of SDP work.
15 And so we were more particularly interested in how she reached
16 her conclusion that he would not be classified as a pedophile
17 or a hebephile. And a lot of it came down to the specific
18 definitions within the DSM-V and the ages of the individuals
19 that were involved.

20 But also I think, more particularly, the -- what --
21 when you look at McGarrahan's report, the protective factors
22 that were involved, the contexts, in particular, of the cheer
23 community and the way in which we were blending the different
24 ages together, also looking at the social and emotional
25 immaturity of Mr. Harris over a period of his adolescence, the

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1 fact that Mr. Harris was in late adolescence while these
2 individuals, minors were in middle adolescence. The -- that
3 most of the individuals involved, it was about a four-year gap.

4 So there were a number of factors in those bullet
5 points, I would say, that contributed to the diagnosis by both
6 of them, that he was not -- did not fall within the category of
7 sexual deviance disorder and that it was better described
8 without using that particular label.

9 THE COURT: Thank you.

10 MR. HERMAN: Judge, could I have a brief follow-up on
11 that --

12 THE COURT: Sure.

13 MR. HERMAN: -- to maybe add some additional gloss?
14 And specifically -- and if you don't mind if I lead? Because
15 it's in the report.

16 BY MR. HERMAN:

17 Q. Specifically, Ms. Short, did Dr. Hutchinson and Dr.
18 McGarrahan, for that matter, consider the emotional and
19 cognitive delays that Jeremiah displayed throughout his entire
20 life, as documented in the records and anecdotal evidence?

21 A. Yeah. And so I think one of the things that was
22 important -- and when we're doing the investigations, Judge,
23 we're trying to look for information that is corroborated along
24 several avenues. And so we -- particularly with the
25 emotional/cognitive delays with Mr. Harris, we were seeing it

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1 early in childhood and reports from family members, then
2 reports from schools, then reports from records, then reports
3 from coaches, and then reports from individuals that were able
4 to watch him from the age of about 11 through the age of 18,
5 and we were really getting a wide range of consistency through
6 many different data points on that particular issue.

7 And so that social immaturity and the fact that he
8 was more comfortable with peers that were anywhere between two
9 to four years younger than him, just in a normal socialization
10 situation, was significant, I think, to both experts.

11 The other thing I think was significant to both
12 experts was that he was generally a very prosocial individual,
13 not antisocial, and, you know, very much a kid that was
14 amenable to instruction and education and therapy.

15 THE COURT: And there's a reference in the
16 chronology, when Mr. Harris is 20 years old, that one of the
17 people that you interviewed talked to you or your interviewer
18 about meeting Mr. Harris' boyfriend at the time.

19 THE WITNESS: Yes.

20 THE COURT: I infer from that that it was an
21 age-appropriate relationship. And so that at age 20, Mr.
22 Harris was capable of forming age-appropriate relationships.

23 THE WITNESS: Well, and so what we also saw happen
24 was in the summer before he went out to the University of
25 Louisville, which is where he went the first semester of his

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1 junior year, is, I think, a period of growth for Mr. Harris in
2 terms of his adolescence, catching up to where he was.

3 Most of the people who were responsible for him going
4 into college did not want him to go to a regular college
5 because they just did not feel he had the social or emotional
6 maturity, which is why they wanted him in a junior college
7 environment where he would be more monitored.

8 When he got to the University of Louisville, which
9 was, you know, your typical college experience, and he got into
10 what was a, you know, vibrant gay community, the relationships
11 were normalized, and he was dating and enjoying and partying
12 with kids that were his same age. And that's what our
13 expectation would be going forward based on my conversations
14 with both Dr. McGarrahan and Dr. Hutchinson.

15 THE COURT: Thank you.

16 MR. HERMAN: Thank you, Ms. Short.

17 Judge, regarding these videos, as you're aware, we've
18 submitted 24 videos. And if this was the normal case, and
19 without the technology, we may be calling up witness after
20 witness. But we've culled maybe one full video ten minutes of
21 length and four or five clips and then some of the individuals,
22 Shannon Young, which we think are important, and we have the
23 Bodymap at the end.

24 BY MR. HERMAN:

25 Q. So, Ms. Short, did you interview somebody named Adrian

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1 Ringo?

2 A. I did, yes.

3 Q. And who is Ms. Ringo?

4 A. Ms. Ringo is an important person in Mr. Harris' life.
5 She's one of the mothers that he met through cheer and is an
6 important person in his support system currently.

7 Q. Did -- was she -- Jeremiah's involvement in cheer was
8 unique for a couple of reasons because of his race and
9 ethnicity and gender, correct?

10 A. Yes.

11 Q. And did Ms. Ringo have some association with that that she
12 spoke about in her video?

13 A. She did. So she was able to specifically address some of
14 the issues of Jeremiah being both African-American and a gay
15 youth in a sport that -- I don't know how familiar you are with
16 cheer, but it's a very suburban/white sport. We don't see a
17 lot of Jeremiahs in the gyms.

18 Q. And it's an expensive sport, too, based on your personal --

19 A. I can attest that it is a very expensive sport.

20 MR. HERMAN: Okay. If I may publish this video of
21 Ms. Ringo?

22 (Said video played in open court.)

23 BY MR. HERMAN:

24 Q. Is that sentiment that Ms. Ringo ended with about support
25 throughout this case and afterwards whenever release is, was

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1 that echoed in every single video that your team made?

2 A. Yes.

3 And I want to reiterate, Judge -- and I felt my
4 answer earlier was incomplete to you. But this event where we
5 did the video, I met with 40 different sets of parents, and
6 this was where we had these hard conversations about the
7 seriousness of these offenses.

8 And I don't want to leave you with the impression
9 that I was mealy-mouthed about it or that I didn't particularly
10 help them understand the seriousness of what life looks like
11 after conviction and prison. And so I -- and those
12 conversations happened with Ms. Ringo and with the other videos
13 that you've seen.

14 Q. You also interviewed someone named Lauri Hamilton, correct?

15 A. I did.

16 Q. And I believe Ms. Hamilton is in court right now.

17 A. Yes.

18 Q. Did you -- amongst other subjects, did you happen to speak
19 to her about a moment when Jeremiah started living with her
20 after the death of his mother?

21 A. I did.

22 Q. And this was temporary -- a temporary stay with her,
23 correct?

24 A. Yes, yes.

25 Q. And --

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1 A. As people were trying to figure out what -- you know, what
2 would happen to Jeremiah next.

3 Q. Did she share her impressions of Jeremiah's, you know,
4 fragile psyche at that time with you?

5 A. Yes.

6 (Said video played in open court.)

7 BY MR. HERMAN:

8 Q. And you also spoke with Jim and Shannon Whelan, correct?

9 A. Yes.

10 Q. And Jeremiah ended up moving in with the Whelans?

11 A. Yes. He was able to finally move in with them in the
12 spring of his senior year of high school.

13 Q. In addition to the actual medical records that followed
14 Jeremiah throughout his life, was there anecdotal evidence of
15 firsthand observations of Jeremiah being emotionally younger
16 than he actually was in terms of a number?

17 A. Yeah. There were many people who had close relationships
18 with Jeremiah, both teachers at Waubonsie High School,
19 counselors there, as well as family members who took him in,
20 who had opportunities to observe him, that had opinions about
21 his stunted emotional/social growth.

22 Q. And Jim and Shannon Whelan also commented on that, correct?

23 A. Yes.

24 (Said video played in open court.)

25 BY MR. HERMAN:

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1 Q. And Natasha Pryor was another individual who you
2 interviewed, correct?

3 A. Yes.

4 Q. Do you also recall about her -- if she shared with you her
5 impressions of Jeremiah's maturity in his adolescence?

6 A. Yes.

7 (Said video played in open court.)

8 BY MR. HERMAN:

9 Q. You testified earlier that you spoke with individuals
10 outside of the cheer family, correct?

11 A. Yes.

12 Q. Was one of the individuals Mr. Shannon Young, who is on
13 your screen?

14 A. Yes.

15 Q. Okay. Who is Shannon Young?

16 A. Well, Shannon Young is a coach, a cheerleading coach, and a
17 co-owner at ICE All-Stars, which is Illinois Cheer Elite, which
18 is the gym that Jerry started with in fifth grade and was there
19 through his senior year in high school.

20 Q. And you sat down and you had a long video interview with
21 Mr. Young, correct?

22 A. Yes.

23 Q. And Mr. Young told you about how he personally knew
24 Jeremiah?

25 A. Yes.

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1 Q. Okay. Did Mr. Young also offer some critiques about the
2 cheer community itself?

3 A. Yes.

4 Q. Were you surprised to hear those from him?

5 A. Yes.

6 Q. Why is that?

7 A. Well, because of his position in the cheer community. I
8 thought that it was courageous of him to speak so openly and
9 honestly about the ways in which this cheerleading has evolved
10 in a way that's really not particularly healthy, I think, for
11 its athletes.

12 Q. Was one of his criticisms about the blending of different
13 age groups?

14 A. Yes.

15 Q. Okay. And he spoke about that to you?

16 A. Yes.

17 Q. Okay.

18 MR. HERMAN: I'm going to play a clip of the -- maybe
19 a clip of the clip here.

20 THE WITNESS: Okay.

21 (Said video played in open court.)

22 MR. HERMAN: Just to jump forward two minutes for the
23 record.

24 (Said video continued to be played in open court.)

25 MR. HERMAN: Now, the last video -- last part of the

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1 presentation that I'd like to play is this Bodymap.

2 THE COURT: Before we do --

3 MR. HERMAN: Yes.

4 THE COURT: -- Bodymap, can I ask a question --

5 MR. HERMAN: Of course.

6 THE COURT: -- about the section of Mr. Young's
7 comment that maybe you, Ms. Short, can situate within Mr.
8 Harris' life chronology that you have prepared?

9 I don't see so much of a direct connection between
10 the problem that Mr. Young is talking about and the offense
11 conduct here, and even the chronology of Mr. Harris' life.

12 So while I can appreciate that that may be a
13 background phenomenon that is happening within cheer, this
14 age-blending --

15 THE WITNESS: Uh-huh.

16 THE COURT: -- I don't see it having all that
17 particular a direct application to this case. So I thought I
18 would give you an opportunity to explain why I might be wrong
19 about that.

20 THE WITNESS: Okay. So the one thing that I think is
21 important to understand is that when these kids are coming to
22 these cheer gyms, they're coming from all different schools and
23 even regionally coming into these teams. The teams come in in
24 May and they're formed.

25 So Jerry was always on teams where he was not with

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1 all same-age kids, right? So on his teams, there would be a
2 range of ages. Even when he was on a level 2, level 4, then he
3 was level 5 at the end.

4 And so the flyers, the kids that are being tossed up
5 into the air, those kids all range in age anywhere probably
6 between 8 and 12. So Jerry might be an 18-year-old or a
7 17-year-old, ready to turn 18, and his flyers might be 8 or 9
8 or 10 years old.

9 So you would be socializing and bonding with those
10 teams. Does that make sense?

11 THE COURT: No, I understand the point. I am
12 wondering -- and it might not be so much a direct connection.
13 It's just a --

14 THE WITNESS: So then --

15 THE COURT: -- phenomenon and --

16 THE WITNESS: -- the other --

17 THE COURT: But the offense conduct here is of a
18 particular kind, and I am wondering how attributable it is to
19 the nature of these cheer teams and the culture of cheer, or
20 whether it's attributable to something else or it's part of it.
21 But how direct a connection is it really to the offenses?

22 THE WITNESS: Well, I think the other thing that --
23 perhaps is that there are a small number, a small percentage of
24 boys that participate in cheer, and it gets larger as you get
25 older.

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1 Within Jerry's gym at ICE, there was a smaller
2 percentage of boys that were participating, and most of the
3 teams would have been girls.

4 But the other thing that happens in the cheer
5 community, with the proliferation, certainly, of social media,
6 Twitter, Snapchat, et cetera, is that the kids are growing
7 their networks across the country. And so when we would arrive
8 at these different venues around the country, the kids would be
9 socializing with kids from other teams that they met over the
10 internet, and those kids would, again, range in ages based upon
11 what level teams they were on.

12 And so I think the kids naturally saw each other as
13 peers, particularly if they were competing on same-level teams.
14 So on level 2, you're a level 2. You're a flyer. You're eight
15 years old. I'm a backspot or I'm a sidespot, or whatever. And
16 the kids -- you could see it when you were at competitions,
17 Judge. And I've been to very many competitions. And the kids
18 all running around together, all varying ages, and most of them
19 on their phones, you know, talking to each other and exchanging
20 information.

21 Girls that I interviewed in this case would often
22 tell me that they might be 16, but their best friend was 13
23 because of the way, you know, they socialize on -- through
24 cheer.

25 So I think that the kids didn't see the lines drawn

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1 the same way they might have if we were running cheer the way
2 Shannon talked about and the way it traditionally was run.

3 THE COURT: Thank you.

4 MS. GUZMAN: Judge, I'm sorry to interrupt. I don't
5 know if this is the last video, but I know it's 20 or 30
6 minutes, and I was going to ask the Court if we could have a
7 restroom break soon? I apologize.

8 MR. PUGH: I'll join in that motion.

9 THE COURT: And this --

10 MR. HERMAN: This is the last --

11 THE COURT: Are you playing the whole Bodymap video?

12 MR. HERMAN: We play the whole Bodymap. And this is
13 the last --

14 THE COURT: But it is -- the Bodymap video is about
15 26 --

16 MR. HERMAN: About 20 minutes.

17 THE COURT: Yeah. We can take a break. Why don't we
18 take a break for -- I know there's a lot of people, and now
19 there's going to be a lot of moving parts, but if we could keep
20 it to as close to five minutes as possible so that we can
21 reconvene, that would be, I think, helpful for everyone.

22 So let's take a short recess.

23 (Recess.)

24 THE CLERK: Recalling 20 CR 637, United States versus
25 Harris.

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1 THE COURT: Mr. Herman, you may resume.

2 MR. HERMAN: Thank you, Judge.

3 BY MR. HERMAN:

4 Q. Ms. Short, we left off with the last video of -- for today.

5 You're familiar with something called a Bodymap
6 video?

7 A. Yes.

8 Q. Who prepared this video?

9 A. Dr. Julie Urbanik.

10 Q. And briefly, could you explain to the Court what a Bodymap
11 video is?

12 A. So the Court received a report from Dr. Urbanik which lays
13 out the process that Dr. Urbanik used, and the purpose of the
14 Bodymap. But basically the Bodymap is a qualitative research
15 instrument that Dr. Urbanik has used in her practice as a
16 social geographer, and it serves as a way to work with Jeremiah
17 to help us see his own life experiences, his experiences in the
18 community, and how well he can be self-reflective about those
19 experiences.

20 Q. And Dr. Urbanik, you're aware that she met with Jeremiah at
21 the MCC to actually prepare the material used in this video --

22 A. Yes.

23 Q. -- correct?

24 A. She -- this was a two-day process, yes.

25 Q. And those meetings occurred, again, at the MCC?

Short - cross by Guzman

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1 A. They did, yes.

2 Q. Okay. And you referenced that Dr. Urbanik also provided a
3 report, which has been tendered to the Court and the government
4 and Probation, along with the video, correct?

5 A. Correct.

6 Q. And you have reviewed the Bodymap video?

7 A. I have.

8 Q. And the video -- I'm about to play the Bodymap video. And
9 you've seen this actual copy before, and it's the copy that Dr.
10 Urbanik prepared, right?

11 A. I have.

12 Q. Okay.

13 (Said video played in open court.)

14 MR. HERMAN: Judge, I have nothing further.

15 THE COURT: Ms. Guzman, do you have any questions
16 you'd like to pose of Ms. Short?

17 MS. GUZMAN: Yes, Your Honor.

18 THE COURT: Go ahead.

19 MS. GUZMAN: Do you want me to do it seated or can I
20 use the podium?

21 THE COURT: You can use the podium.

22 CROSS-EXAMINATION

23 BY MS. GUZMAN:

24 Q. Good afternoon. It's Ms. Short, right?

25 A. Yes.

Short - cross by Guzman

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1 Q. Is it -- Ms. Short, you're a lawyer by profession, right?

2 A. Yes.

3 Q. And now you're a mitigation consultant, correct?

4 A. Yes.

5 Q. Okay. And so you're being paid for your services in this
6 case, is that right?

7 A. Yes.

8 Q. And paid for your testimony today?

9 A. No, not being paid for my testimony. I'm being paid for my
10 time.

11 Q. Okay. And how much are you being paid for your time in
12 this case?

13 A. I get paid \$125 an hour.

14 Q. Okay. And you said as a mitigation consultant, it's your
15 job to find and portray for the court mitigation information,
16 right?

17 A. Correct.

18 Q. And it's your job to find as much mitigation information as
19 you can, correct?

20 A. To develop the life history of the individual, yes.

21 Q. And this is a service that you provide to defendants
22 exclusively, right?

23 A. Correct.

24 Q. Okay. You're never hired by the government or by the
25 prosecution, correct?

Short - cross by Guzman

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1 A. That's correct.

2 Q. And in this case, you said you had done approximately 70
3 hours or 14 meetings with Mr. Harris, correct?

4 A. True.

5 Q. And you'd also conducted over 70 interviews of witnesses
6 and people in Mr. Harris' life, is that right?

7 A. Yes.

8 Q. As part of your preparation in this case, did you meet with
9 any of the investigating agents or law enforcement officers in
10 this case?

11 A. I did not.

12 Q. And did you meet with any of the victims of this -- these
13 offenses?

14 A. I did not, but I -- no.

15 Q. That's not part of the context that you're providing to the
16 Court today, correct?

17 A. No, I don't -- I don't think that's my role. But no.

18 Q. And you said when you met with these over 70 people to talk
19 with them about Jerry Harris and who he is and what they think
20 of him, you did talk with him -- with them about the offense
21 conduct, right?

22 A. Yes.

23 Q. And I think you said -- well, first of all, did you tell
24 them that these were allegations or that they were convictions?

25 A. Mr. Harris had made admissions to the conduct based upon

1 what I had read from the government's discovery.

2 Q. Okay. And I think you said that you told them -- well,
3 actually, let me ask you, did you tell them how many kids he
4 had assaulted and harassed?

5 A. I discussed it based upon the discovery that was provided
6 and the -- so there are seven minors.

7 Q. Okay. So did you tell them there were seven victims?

8 A. Yes.

9 Q. And did you tell them that there were seven main victims in
10 this case, but that Mr. Harris had admitted there were five to
11 ten that he knew that he'd done this with?

12 A. Yes. During the conversation that he had with the FBI
13 agent that he had identified, as I recall, five to ten.

14 Q. Okay. And did you tell the people that you were speaking
15 with that he threatened to post photos, that the sexually
16 explicit photos that they sent, if they didn't agree to send
17 him more?

18 A. Well, your memory and my memory may differ on that
19 particular point. But I do not recall giving that specific
20 piece of information.

21 Q. So you didn't tell them that he'd threatened them?

22 A. I -- again, your memory and my memory may differ on that
23 particular point, so I don't -- I did not provide that piece of
24 information.

25 Q. And you also said that you told them that he had given

1 invitations to send nude photos? Is that the way that you
2 characterized it?

3 A. If that's the word that I used today, that's a -- that
4 would be the wrong word. And so "invitation" would not be the
5 right word.

6 Q. So what would be the right word?

7 A. Solicited.

8 Q. Okay. And is that the word that you used when you talked
9 to these 70 people?

10 A. Yes.

11 Q. Okay. Did you tell them that he repeatedly attempted to
12 solicit and did solicit these, even after each of these victims
13 declined?

14 A. Well, what my recollection is is that there was
15 solicitation of nude photographs that were -- was repeated over
16 time with each of the minors involved, and that that was
17 communicated to the individuals in these various family groups.

18 Q. Okay. Did you tell them that this conduct went on for
19 months and months?

20 A. Yes.

21 Q. And did you tell them that he pressured and influenced
22 these victims to send these photos?

23 A. I do not believe that I probably used the language that
24 you're using, but I did make it clear that there was a
25 difference in age and that Mr. Harris' behavior was wrong and

1 inappropriate.

2 Q. But you didn't use the word "pressure" or "influence"?

3 A. I -- I cannot -- these are conversations we had a year ago,
4 and so it'd be impossible for me to tell you exactly which
5 words that I used.

6 Q. Did you tell them that it wasn't just photos; that he was
7 also pressuring them to send videos of themselves masturbating?

8 A. That there were photos and images, and that the images were
9 all solicited over the internet, and that they were all
10 inappropriate and involved genitalia and anal pictures.

11 Q. And did you tell them that he raped a 15-year-old boy?

12 A. They were aware that there was a contact offense involving
13 a 15-year-old boy.

14 Q. And is that how you described it to them, as a contact
15 offense?

16 A. Again, these are conversations we had a year ago. But I
17 made it clear that the offense conduct was -- like probably the
18 term I used was "statutory rape."

19 Q. Did you tell them that he performed oral sex on a
20 15-year-old boy?

21 A. I can't tell you right now whether I distinguished the
22 character -- or characterized what the rape was, but that the
23 conduct was classified as rape.

24 Q. And so do you recall whether you told them that he then
25 asked the 15-year-old boy to perform oral sex on him? Do you

1 remember whether you told any of them that?

2 A. I don't believe that I got into that specific of detail.

3 Q. And so then you wouldn't also have told them that after
4 that 15-year-old boy said, "No, I don't want to do that," he
5 turned the 15-year-old around and anally penetrated him in a
6 bathroom stall? Did you tell any of those 70 people that?

7 A. I don't believe I got into that specific detail.

8 Q. Okay. But you told them that it was inappropriate based on
9 age?

10 A. No. I told -- I just said that it was -- I described it as
11 "statutory rape," using the word "rape."

12 Q. You talked about and provided the Court with a lot of
13 educational records in this case.

14 A. Yes.

15 Q. The purpose of an IEP, an individualized education plan, is
16 to make sure that when kids have special needs, those needs are
17 met by their educators, right?

18 A. That's the -- yes. That is the purpose.

19 Q. Okay. And Mr. Harris always had an IEP?

20 A. Yes.

21 Q. And his educational records also show that school was, by
22 and large, a very positive experience for him, correct?

23 A. No, I would not say that. I think in middle school, it was
24 a negative experience for him. There was a lot of bullying
25 that he experienced in middle school.

Short - cross by Guzman

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1 Q. In late middle school and in high school, his teachers said
2 that he was well-liked by his teachers, correct?

3 A. In high school, he had a very positive experience. I would
4 agree with that.

5 Q. And he got along with his classmates, correct?

6 A. Yes. He got along with classmates, he got along with
7 teachers, he got along with staff. So he had a very positive
8 experience in high school.

9 Q. And, in fact, one teacher even commented that he was very
10 skilled at getting other kids to follow instructions and still
11 remaining friends with them, correct?

12 A. Well, he had lots of friends in high school.

13 Q. All right. And he didn't have any trouble following
14 instructions or completing his homework, correct?

15 A. Well, it depends on the period of time. In his freshman
16 and sophomore year, he had more trouble in terms of completing
17 homework assignments and doing the work that needed to be done.
18 He did better in his junior and particularly his senior year,
19 when he had more support both outside the home as well as in
20 the classroom.

21 Q. And you'd agree that he got the support that he needed, and
22 his grades went up because of it, correct?

23 A. Senior year, yes, he did.

24 Q. Okay.

25 A. Yeah. When he was provided structure and guidance and

1 rules, he did very well.

2 Q. I have a couple questions about the Bodymap.

3 What is a Bodymap? I've never heard that term before
4 this case.

5 A. Yeah. So it is a qualitative research tool that is used by
6 -- Dr. Urbanik actually is a social geographer. And it's a
7 research tool that she's used in other forums; not necessarily
8 in mitigation, but in other work that she's done.

9 Q. When you say "qualitative research tool," but I don't
10 understand. What is that? What's a qualitative research tool?

11 A. Well, qualitative as opposed to quantitative. So
12 qualitative would be more where you are gathering information
13 from a single individual, as we were doing with Mr. Harris, as
14 opposed to quantitative or things that are more measurable.

15 I don't know if that helps, but --

16 Q. Okay. And so what was -- were you there when Ms. Urbanik
17 met with Mr. Harris to create this Bodymap?

18 A. I was.

19 Q. And did she explain the Bodymap concept to Mr. Harris?

20 A. She did.

21 Q. And what instruction was he given on how to create a
22 Bodymap?

23 A. Well, he was shown -- there were tools. So there was a
24 poster board and there was an outline of a body on that. He
25 was interviewed by her, first of all. And as he went through

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1 different life experiences, he was asked to create images that
2 might help him to explain things that had happened in his life,
3 and he created those images.

4 Q. And as he was going through life experiences, was he doing
5 this in response to questions that she was posing to him?

6 A. Yes.

7 Q. And was she making suggestions about what types of images
8 he might include in the Bodymap?

9 A. No. That would be up to him to decide what images best
10 represented life experiences that he had had.

11 Q. And the recorded narration that's spliced into the video,
12 is that Jerry Harris answering Dr. Urbanik's questions?

13 I'm sorry. I didn't hear your answer.

14 A. Yes.

15 Q. Okay.

16 A. Uh-huh.

17 Q. Was it his idea to just draw a circle with ages in it for
18 the other ages of the kids on his team?

19 A. Yes.

20 Q. And was it his idea to talk about his lack of guidance and
21 oversight of his social media accounts?

22 A. Yes.

23 Q. I want to ask you some questions about Dr. Hutchinson's
24 report in this case.

25 You didn't write this report, correct?

Short - cross by Guzman

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1 A. I did not, no.

2 Q. But you did review it, right?

3 A. I have, yes.

4 Q. Okay. And -- sorry. I'm going to direct your attention,
5 if I may, to page 12.

6 Referral question 4 deals with how the Court should
7 understand Mr. Harris' decision-making regarding asking high
8 school seniors in July 2020 to send nudes with financial
9 compensation, how to understand that conduct, right?

10 A. Yes.

11 Q. This is referring to the offenses involving Minors 2 and 3
12 in this case, correct?

13 A. I'll take your word for that.

14 Q. Okay. Well, did you review any of the interviews of the
15 victims in this case?

16 A. I did.

17 Q. Did you review the interviews of Minors 2 and 3?

18 A. If these are the 17-year-olds?

19 Q. Yes.

20 A. Yes.

21 Q. In July and August of 2020?

22 A. Yes.

23 Q. So Dr. Hutchinson says: "It is hard for this examiner to
24 see the high school seniors as victims in this scenario."

25 Would you agree with that statement? Are Minors 2

1 and 3 not victims in this scenario?

2 A. They are victims in this scenario.

3 Q. And the next sentence that she writes is: "The boys were
4 suburban, white high school seniors."

5 Do you know why the fact that they were suburban or
6 white is relevant to her or to whether they're victims?

7 A. I do not know.

8 Q. Okay. And she describes that: "It was only after texting
9 with one of the boys for two weeks that Mr. Harris asked him to
10 send a nude photo."

11 First of all, it was a sexually explicit photograph,
12 correct?

13 A. Are you asking me what language was used in the texts? I
14 don't know.

15 Q. No. What was actually sent.

16 It was a sexually explicit photograph, correct?

17 A. It was a -- it was a nude photograph.

18 Q. Okay. And do you know where she got that two-week period
19 from? Is that your understanding of the offense conduct?

20 A. I assume it was in the discovery.

21 Q. Well, do you remember from your review of Minor 2 -- of the
22 interview of Minor 2?

23 A. I don't have specific memory right now.

24 Q. Do you know that Minor 2 actually said that it was after
25 sending several Snapchats that Mr. Harris asked to see his

1 butt?

2 A. I don't have a recollection of that right now. You'd have
3 to show it to me.

4 Q. Okay. And do you know that Minor 2 declined and said "No"
5 to that request at first?

6 A. I'll take your word for it.

7 Q. And are you aware that Mr. Harris then, in response,
8 unfriended Minor 2 for two weeks?

9 A. Okay.

10 Q. And do you think that might be where Dr. Hutchinson got
11 that two-week period from?

12 A. That could be. That could be.

13 Q. Okay.

14 A. That sounds like it.

15 Q. So that might have been a mistake in Dr. Hutchinson's
16 report?

17 A. Perhaps.

18 Q. Okay. And then Dr. Hutchinson also writes: "That young
19 man and a friend contrived and presented the idea that they
20 would send nude pictures in exchange for money."

21 Do you see where she writes that?

22 A. I do.

23 Q. That mischaracterizes the offense conduct, doesn't it?

24 A. That is her language, and my understanding is that there
25 was an exchange of money for nude photographs.

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1 Q. And based on your review of the reports and your interviews
2 of Mr. Harris, is it your understanding that Mr. Harris offered
3 to pay or that Minors 2 and 3 solicited money from Mr. Harris?

4 A. My understanding is that money was exchanged in -- that
5 money was exchanged for nude photographs.

6 Q. So are you not aware, then, of the statement by Minor 2
7 that Mr. Harris asked him for pictures of his butt for three
8 hours, and that Minor 2 declined and refused to provide them
9 during that whole time?

10 A. I don't recall. You'd have to show that to me.

11 Q. And are you not aware, then, of the statement by Minor 2
12 that when he refused to send the photos, it was then that Mr.
13 Harris offered to pay him money?

14 A. Again, you'd have to show me the --

15 Q. So you don't --

16 A. I don't --

17 Q. -- recall that?

18 A. I don't recall at this moment.

19 Q. And Mr. Harris sent a hundred dollars first before even
20 receiving any images to prove to Minor 2 that he would send the
21 money.

22 Do you recall that?

23 A. I do.

24 Q. You do recall that? Okay.

25 A. I recall that money was sent before an image. I do recall

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1 that.

2 Q. And you just don't recall as you sit here today whether Mr.
3 Harris sent the money to try to get them to send the photos or
4 whether it was their idea?

5 A. I'd have to look at the discovery again to remember the
6 details that you're describing.

7 Q. And if the discovery said that Minor 2 said he was refusing
8 to send the photos, and that's when Mr. Harris offered to send
9 him money, then Dr. Hutchinson's report would be wrong about
10 that, right?

11 A. I would trust the -- what the discovery said to be
12 accurate.

13 Q. In this same section, Dr. Hutchinson also says: "It is
14 possible that this was a game to these young men."

15 She's referring to Minors 2 and 3 there, right?
16 Correct?

17 A. As I read the paragraph, that's the way I would interpret
18 it.

19 Q. And they are victims in this case, correct?

20 A. They are.

21 Q. She didn't interview them, did she?

22 A. No.

23 Q. Neither did you, right?

24 A. No.

25 Q. So she doesn't really know, does she?

1 A. No.

2 Q. It's also possible that they were pressured into doing
3 something that they were intensely uncomfortable with by
4 somebody who was older than them, right?

5 A. It's possible.

6 Q. Okay. And was Dr. Hutchinson aware that Minor 3 reported
7 that he felt super-regretful, self-conscious, used, and
8 uncomfortable after this encounter with Mr. Harris?

9 A. Minor 3?

10 Q. Minor 3, yes.

11 A. I -- is that in the discovery?

12 Q. Yes, it is.

13 A. Okay. If it was in the discovery, then she is aware of it.

14 Q. Okay. And so if that was in the discovery, then this
15 report, when it says it's "a game to these young men," that's
16 wrong, too, right?

17 A. You're asking me to comment on what she's written?

18 Q. Yes. Is Dr. Hutchinson's report right or wrong when it
19 says that Mr. Harris' conduct was a game to Minors 2 and 3?

20 A. It's not the way I would write it up.

21 Q. Dr. Hutchinson also states -- makes several statements
22 about Mr. Harris' awareness of whether what he was doing was
23 wrong or right.

24 Specifically on page 11, Dr. Hutchinson writes:

25 "Until his cheer parents cautioned Jeremiah about not having

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1 online contact with underage minors after he achieved a
2 celebrity status, Jeremiah had no awareness or knowledge that
3 his friendships with younger boys, including the mutual sending
4 of nude pictures, was in any way a problem."

5 Do you see that?

6 A. Where are you?

7 Q. Page 11.

8 A. Yes.

9 Q. So my first question to you is: When Dr. Hutchinson
10 describes the offense conduct here as the "mutual sending of
11 nude pictures," do you think that's an accurate
12 characterization of the offense conduct?

13 A. No.

14 Q. Are you aware in anything that you reviewed or in any of
15 the discovery of -- well, strike -- I'll strike that question.

16 All right. My second question is: This isn't true,
17 right? Because, like the judge asked you, Mr. Harris is
18 actually told at 13 that having inappropriate contact with
19 younger kids was inappropriate, was wrong, right?

20 A. Yeah. I think what he was told is sending nudes was
21 inappropriate.

22 Q. That's right.

23 A. And I think any child would be told that sending nudes is
24 inappropriate.

25 Q. Okay. And so contrary to what Dr. Hutchinson wrote, Mr.

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1 Harris did know that sending nudes was inappropriate?

2 A. Yes.

3 Q. Is that right?

4 A. And I think also that what was known is that,
5 unfortunately, among our youth, a lot of youth are sending
6 nudes using their phones and other electronic devices.

7 Q. And Dr. Hutchinson also writes that Mr. Harris was -- on
8 page 14 -- "completely oblivious to the reality that he was
9 engaging in actions that were illegal and could potentially be
10 harmful to his young friends."

11 Do you agree that he was completely oblivious to the
12 reality that his actions were illegal and harmful?

13 A. It depends on at what point in time we're talking about.

14 Q. At what point in time do you think he was completely
15 oblivious? You tell me.

16 A. Well, I think that sending nudes, unfortunately, had been
17 part of what had been happening with him since he was pretty
18 young. And I think a lot of his peers sent nudes. A lot of
19 the -- again, a lot of the kids that I interviewed in this case
20 send nudes to each other. It's prevalent through middle school
21 and high school. It was --

22 Q. So you're talking --

23 A. -- prevalent within his family, members of his family to
24 also send nudes, and had since they were -- so it's --
25 unfortunately, sending nudes has become more normalized than we

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1 would like it to be.

2 Q. And you're talking about sending nudes, but the offense
3 conduct here was asking other people to produce sexually
4 explicit content, right?

5 A. And I think --

6 Q. Not just sending, but asking other people to produce those
7 images for him personally, correct?

8 A. That is true. And I think that --

9 Q. That's what Mr. Harris is doing, right?

10 A. I --

11 MR. PUGH: Judge, could I ask that Ms. Guzman allow
12 Ms. Short to finish her answers, please?

13 THE COURT: That objection is sustained.

14 Just both of you need to not talk over each other
15 because the court reporter is trying to take everything down.

16 MS. GUZMAN: Thank you, Judge.

17 THE COURT: You can proceed.

18 BY THE WITNESS:

19 A. And I would only modify my answer, Ms. Guzman, by saying
20 that when I talk about our youth and what's happening in terms
21 of their use of their digital devices is that young people are
22 both asking for nudes to be sent to them and they are sending
23 nudes, and this is more prevalent than we would like it to be.

24 BY MS. GUZMAN:

25 Q. But Mr. Harris wasn't just asking, was he?

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1 A. Yes, I think he was asking.

2 Q. And so when the victims in this case said "No," did Mr.
3 Harris stop asking them?

4 A. Sometimes.

5 Q. Which victim did he stop asking with?

6 A. Well, I don't know their numbers, which numbers they would
7 associate with which of the individuals, but I believe --

8 Q. Can you describe by offense conduct or date or location of
9 the incident?

10 A. I don't have them memorized as you do. I could give you
11 initials, maybe. I don't know if that would help you.

12 MS. GUZMAN: Is that okay with Your Honor?

13 THE COURT: You may use initials.

14 BY THE WITNESS:

15 A. L.L.

16 BY MS. GUZMAN:

17 Q. Okay. And did you read in that individual's report that he
18 said that he was made very uncomfortable by Mr. Harris'
19 advances at the first cheerleading competition that he met with
20 him at?

21 Is that a yes?

22 A. It -- in that he gave him a hug or something, I think.

23 I do remember that, yes.

24 Q. Yes. And that after minor -- that minor said that he was
25 made to feel uncomfortable, Mr. Harris asked to meet him again

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1 at the next competition a month later, right?

2 A. He may have.

3 Q. Okay. And Mr. Harris also threatened to post photos online
4 of Minor 1 and Minor 5 if they didn't keep sending images,
5 right?

6 A. I recall one of the minors did say that Mr. Harris had made
7 that threat, and I believe it was Minor 5. I don't remember
8 anything like that with respect to Minor 1. But that doesn't
9 mean that it's not in the discovery.

10 Q. So that would be one, possibly two other instances where
11 Mr. Harris didn't stop asking after they said "no," right?

12 A. Well, and then I think with -- I think it's Minor 2 who
13 also said that he didn't want to receive any more texts from
14 Mr. Harris. Then Mr. Harris moved on.

15 Q. Okay. And are you aware that Minor 1 and Minor 1's brother
16 both described Mr. Harris as pushy and demanding?

17 A. I did. I am.

18 Q. And that they both described that he made them feel guilty
19 when they didn't send him the pictures and videos that he was
20 asking for?

21 A. I am.

22 Q. Okay. And is making somebody feel guilty and being pushy
23 and demanding part of the normal mutual sending of nudes that's
24 not a problem?

25 A. I am not saying -- in fact, I would assert that adolescents

1 sending and receiving nudes, requesting nudes is a problem, and
2 that it is something that we, as a community, have not done a
3 very good job in terms of providing young people with digital
4 consciousness. And it's something that we should be educating
5 children starting in kindergarten, but we haven't done that.

6 Waubonsie High School started to provide digital
7 education to their teenagers, starting Jeremiah's senior year,
8 to their freshmen, recognizing that we have a serious problem
9 in terms of our adolescents asking for and sending
10 inappropriate sexualized images over their digital instruments.

11 We've given them these very, very powerful tools, and
12 they're misusing them. And we haven't prepared them for these
13 tools and then we find ourselves in these terrible situations.

14 Q. And so is it your opinion, then -- do you agree with Dr.
15 Hutchinson -- that part of the situation here is that Mr.
16 Harris was actually completely oblivious that what he was doing
17 was illegal and harmful to others?

18 A. I think that our adolescents -- unfortunately, this has
19 become normalized behavior, and that at what point in time do
20 these young people realize that they have crossed a line.

21 Q. But do you agree with Dr. Hutchinson that Mr. Harris
22 specifically was completely oblivious?

23 A. I don't know that I'd use the word "completely oblivious,"
24 but it depends that at what age.

25 Q. Mr. Harris himself said, "I was an adult, and I took

1 advantage of these teen boys," correct?

2 A. Yes. And Mr. Harris has taken full responsibility for the
3 conduct behavior in this case.

4 Q. Contrary to what Dr. Hutchinson said, Mr. Harris says, "I
5 was selfish and I exploited their weakness. I realized what I
6 did was wrong" --

7 A. Yes.

8 Q. -- correct?

9 A. That's correct.

10 Q. Okay. So was Mr. Harris lying or is Dr. Hutchinson wrong
11 about whether he's completely oblivious?

12 MR. PUGH: Objection, Judge. I mean, this --
13 we've -- I know this is sentencing, and I was given some
14 latitude, but I don't know what we're achieving here with Ms.
15 Short asking to opine on the correctness of this report, and
16 particularly that question.

17 THE COURT: The objection is overruled. It's a
18 function of the defense decision to present the expert through
19 this medium of the mitigation specialist. This is how the
20 expert's report has been presented.

21 The government is entitled to suggest that that
22 expert's report isn't as reliable as perhaps the defense might
23 want it to be. And so through cross-examination, I'll allow
24 the government to effectively attempt to impeach Dr.
25 Hutchinson, which is what this attempt is.

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1 And so that objection is overruled.

2 BY THE WITNESS:

3 A. You'll have to restate the question.

4 BY MS. GUZMAN:

5 Q. Dr. Hutchinson says that Mr. Harris was completely
6 oblivious of what he was doing was wrong. Mr. Harris says he
7 knows "what I did was wrong."

8 Was Mr. Harris lying or is Dr. Hutchinson incorrect
9 about Mr. Harris?

10 A. Without going back and looking at the context in which Dr.
11 Hutchinson has made the statement about being oblivious, Mr.
12 Harris has and continues to take full responsibility for the
13 conduct that brings us to this courtroom today.

14 Q. So Dr. Hutchinson was wrong?

15 THE COURT: I think you've got the answer that you're
16 going to get on that. You can move on.

17 BY MS. GUZMAN:

18 Q. You talked on direct examination about an adult
19 relationship that Mr. Harris was in.

20 A. Yes.

21 Q. And can you -- that's significant to you because it
22 indicates that he's able to form an adult, emotional, genuine
23 relationship with somebody, correct?

24 A. Yes.

25 Q. Okay. Do you know how long that relationship lasted?

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1 A. Not very long.

2 Q. Do you know when it occurred?

3 A. It was while he was at the University of Louisville, his --
4 what would have been his third semester of college.

5 Q. So you'd agree that he is capable of being in an adult
6 relationship, correct?

7 A. Yes. And that's what my expectation would be going
8 forward.

9 Q. And are you aware that while that relationship was
10 occurring, it was during the same period of time that he was
11 harassing the victims in this case?

12 A. So it was in the fall of 2019. Yes. And so he was also
13 having communication with Minors 1 and 2.

14 Is that what you're saying?

15 Q. Yes. In the fall of 2019, he was having communications
16 with Minor 1, Minor 2 -- I'm sorry, Minor 4, Minor -- and Minor
17 5.

18 A. All right. I -- if that's what it says in the discovery,
19 then I will not dispute that.

20 Q. Okay.

21 MS. GUZMAN: I have no further questions.

22 THE COURT: Mr. Herman, do you want to follow up?

23 MR. HERMAN: One second, please.

24 (Counsel conferring.)

25 MR. HERMAN: No, Judge. Thank you.

1 THE COURT: Ms. Short, you may step down. Thank you.

2 THE WITNESS: Thank you, Judge.

3 (Witness excused.)

4 THE COURT: What I thought we would do next would be
5 that I would hear the 3553 argument from the defense, but I
6 wonder if it might make more sense to hear if there are any --
7 if there's anyone else who wants to be heard, including any
8 victims, to hear that first before I let the defense make their
9 3553 argument.

10 Does anyone have any issue with that procedure?

11 MR. PUGH: I do not, Your Honor.

12 MS. GUZMAN: That's fine, Your Honor.

13 THE COURT: So I'll ask you, Ms. Guzman, are there
14 any victims who would like to be heard at this time?

15 MS. GUZMAN: Yes, Your Honor. Minor 5 has sent a
16 statement that one of our victim-witness specialists will read
17 into the record. And then Minor 1 and his brother and his
18 mother are here, and I believe they have statements prepared as
19 well.

20 THE COURT: Why don't we start, then, with the
21 written statement from Minor 5, and I'll allow the government
22 representative to read it into the record.

23 And if you can step up to the microphone, please.
24 And for our purposes, if you could state your name, please, for
25 the record.

1 MS. MENDOZA: Sure. Celia Mendoza, victim-witness
2 coordinator for the U.S. Attorney's Office.

3 THE COURT: You may read the statement from Minor 5,
4 please.

5 MS. MENDOZA: "Hello. I am Victim 5. Cheerleading
6 is my life. I love cheerleading because it is a way for me to
7 express myself without being judged by the wrong people. In
8 cheerleading, I go out on that stage and entertain people with
9 my athletic abilities and energy. I get to be me, a great
10 athlete, enthusiastic and full of spunk.

11 "Jerry was not famous when he first messaged me when
12 I was only 13 years old. He asked me how old I was and
13 continued on, even though he knew I was only 13 at the time.

14 "Then it happened. I was at a cheerleading
15 competition that Jerry knew I was at. Before I realized it, I
16 was stuck, frozen in time. I couldn't get away. I couldn't
17 even process what was happening. The voice inside me was
18 screaming, 'Stop,' but nothing would come out. Like a deer in
19 headlights, I could not move. I was a child being taken
20 advantage of by an adult, an adult that knew exactly what he
21 was doing, and I knew nothing. Jerry took away my innocence at
22 an age when I still didn't even know who I was or how I wanted
23 to live my life.

24 "It was then that my life forever changed. I started
25 to hate the sport that I had been doing since I was seven. I

1 eventually ended up quitting all-star cheer because I couldn't
2 stand being in a gym after what had happened. My grades
3 started to drop in school, and I didn't even know I was going
4 to be able to graduate or go to college and do some of the
5 careers I wanted to badly be able to achieve.

6 "The act that took place at my safe space, a highly
7 populated cheerleading competition filled with so many people,
8 was something that I struggle to wrap my mind around. It took
9 me three years for me to finally begin to mentally deal with my
10 rape, but no matter how much I continue to try, I will never be
11 the same. I can't remember the last time I went a full day
12 without thinking about what had happened to me.

13 "After a very long three years, I am finally
14 understanding how to close this painful chapter in my life.
15 However, the pain will never be forgotten. I only ask that
16 justice is served on Jerry Harris, just" -- "but not just for
17 me, but for all the other victims who have survived Jerry's
18 sexual assault.

19 "Sincerely, Victim 5."

20 THE COURT: Thank you.

21 Now, if the others would like to make a statement,
22 you may do so.

23 (Members of the public approach.)

24 THE COURT: Good afternoon.

25 MOTHER OF MINOR 1: Good afternoon.

1 THE COURT: I understand that you are who we've been
2 referring to as the parent of Minor 1, is that correct?

3 MOTHER OF MINOR 1: Yes, sir.

4 THE COURT: And you'd like to read a statement?

5 MOTHER OF MINOR 1: Yes, sir.

6 So I'm the mother of minors who were referred to in
7 the initial criminal complaint as Minor 1 and Minor 2. And
8 then in subsequent documents, Minor 1 and his brother.

9 And just thank you for the opportunity to address you
10 and this court today.

11 In a few minutes, my sons are going to describe in
12 their own words how Jerry Harris has impacted their young
13 lives. But to preface their statements, I'd like to offer a
14 mother's outside, but up-close point of view of the damage done
15 to my boys by the defendant.

16 There are aspects of what they've experienced that
17 are too raw and too private to be shared. And some of their
18 feelings, some of what they've been through goes beyond any of
19 our ability to find words for it. But hopefully among the
20 three of us, we'll be able to flesh out enough of the human
21 impact that this has had on our family so that you're able to
22 fashion a sentence that takes that impact into account.

23 Today, Mr. Harris' attorneys have detailed his family
24 history and his background of hardship and abuse. They've
25 pulled at our heart strings and sought to persuade us that the

1 real Jerry Harris is not a serial pedophile but is, in fact,
2 the charismatic young man with a hard-luck story that we all
3 fell in love with when we binge-watched him on Netflix back in
4 2020. They have expanded on that narrative today and have made
5 it as easy as possible for all of us to feel sympathy for the
6 defendant.

7 And there's no denying that prior to his arrest, most
8 people experienced Jerry Harris as an exceptionally sunny,
9 unselfish, uplifting individual. There's also no disputing
10 that Jerry faced a number of challenges in his early life. His
11 attorneys and his supporters have pointed to these things as
12 justification for a lenient punishment for his crimes, but as
13 the mother of two of his victims, I have a different
14 perspective on that.

15 From my point of view, Jerry's outsized positive
16 personality and the sympathy that the cheer community felt
17 regarding his mother's death and the other hardships that he
18 had experienced were the key factors that gave him easy access
19 to victims, made it exceptionally difficult for the boys he
20 abused to speak up, and excused him from the accountability or
21 any accountability for the earliest instances of his predatory
22 behavior. And so far from mitigating his conduct, these
23 prosocial traits and this widely-known history of hardship and
24 loss actually facilitated his crimes.

25 Most victims of child sexual abuse and child

1 pornography very understandably choose to remain nameless and
2 faceless. My family is here today, however, because the
3 unintended consequence of this namelessness and facelessness is
4 that it serves to shield the public, and maybe, in a sense,
5 even the Court, from the shattering and really lifelong impact
6 that child sexual abuse and child pornography exacts from its
7 young victims.

8 You know, Mr. Harris' attorneys stated in their memo
9 that a simplistic soundbite narrative would not do justice to
10 the facts of this case, and I a hundred percent agree with
11 that. I am here today to go beyond soundbites and respectfully
12 remind everyone in this courtroom that my sons' and Jerry's
13 other victims have names and faces. I am here to describe some
14 of the ways in which my sons' bodies and souls and minds have
15 been profoundly altered by what Jerry did to them, and explain
16 how this harm continues to impact them on a daily and even
17 hourly basis.

18 Just pause for a second here.

19 (Takes a drink.)

20 MOTHER OF MINOR 1: In order to explain the impact of
21 this crime on my sons, I have to take you back to 2017.

22 My identical twin sons were 11 years old at the time.
23 My son, Sam, had grown too tall for competitive gymnastics, and
24 so he switched to all-star cheerleading, a sport where his long
25 arms and long legs would be an asset rather than a liability.

1 And it didn't take long for both of my boys to
2 conclude that, in cheerleading, they had finally found a
3 community where it was safe as gay young men to be a hundred
4 percent themselves. They jumped in with both feet -- Sam as an
5 athlete and Charlie as an avid fan -- and immersed themselves
6 in a sports culture. As starry-eyed newcomers, they regarded
7 athletes on the top-level teams at the most prominent gyms with
8 awe.

9 Although it was long before Netflix had made Jerry
10 Harris a household name, in 2017, he had already established
11 himself as an icon within the cheerleading community. He had a
12 large social media following, and his team, the Cheer Athletics
13 Cheetahs, was at the very pinnacle of the sport. The Cheetahs
14 were the subject of a popular YouTube channel that my sons
15 avidly watched over the course of the 2017-2018 season. And
16 Jerry, who was the most popular member of that team, was
17 prominently featured in those videos.

18 Something that was unique about Jerry, however, was
19 that he was universally beloved in the cheer community. He had
20 this sort of cheer-lebrity status, a cheerleader who was a
21 celebrity status, not for his athletic ability but for his
22 character.

23 Everyone knew that his mother had died and that Jerry
24 had remained brave and positive and focused on supporting those
25 around him. People within the cheer community said "be a

1 Jerry," when what they meant was be a good person. Fans sought
2 him out at competitions, eager to bask in the glow of his
3 positive attitude. Parents and coaches pointed to him as an
4 exemplar of what every cheerleader ought to be, hard-working,
5 optimistic, an unselfish teammate and friend. And at the end
6 of the 2017-2018 season, his coaches even awarded him a special
7 trophy, the Jerry Harris Award, for being the life of everyone
8 around him, loved more than he will ever know.

9 So by 2018, my son Charlie was tired of watching from
10 the stands, and so he joined his brother as an all-star
11 athlete. In contrast with Sam, who had impressed his coaches
12 and teammates on his very first day with the exceptional
13 tumbling skills he had learned over the three years that he was
14 a competitive gymnast, Charlie could hardly turn a cartwheel.
15 Although he was thrilled to finally be an official cheerleader,
16 he was also very insecure. He was a 12-year-old kid, no-name
17 kid, who had barely made a low-level team at a no-name gym.
18 And he was a bit clumsy and he was a bit awkward, and he was
19 very, very eager to step out of his identical twin's shadow and
20 be accepted in his own right in this new community.

21 So a few months later, when Jerry contacted Charlie
22 out of the clear-blue sky via Instagram direct message, Charlie
23 was wide-eyed enough to think that it was his lucky day. Given
24 Jerry's squeaky-clean reputation, Charlie had no reason to be
25 guarded. He was thrilled to be noticed by someone so popular,

1 and he understandably hoped that a friendship with this beloved
2 adult athlete would be a step toward the inclusion and
3 acceptance within this new community that he so desired.

4 Jerry's very first question of Charlie was, "How old
5 are you?" And Charlie replied truthfully that he was 13.
6 Immediately, Jerry asked for "pics." Specifically, he
7 clarified that he wanted "booty pics." And innocent as he was
8 at the time, Charlie responded by saying, "What do you mean
9 'booty pics'?" But then star-struck, eager to make a new
10 friend, and clearly very naive, Charlie sent two photos of his
11 face.

12 Each time I look at those first two photos that
13 Charlie sent to Jerry, my heart clenches because they remind me
14 of what my twin boys were like before Jerry Harris became part
15 of our lives. They were children. Their faces were smooth and
16 free of acne and whiskers. They still insisted that I come
17 into their bedroom each evening and tuck them in and kiss them
18 good night. They were still young enough to be thrilled when I
19 came and had lunch with them in the school cafeteria a few
20 weeks earlier for their 13th birthday. Their smiles were
21 crooked because they hadn't yet lost all of their baby teeth
22 and were, therefore, not yet ready for braces. They each had a
23 favorite animal, a stuffed animal that they slept with every
24 night.

25 You know, at that time, certainly both of my sons

1 could be described as quirky, but they projected a genuine
2 self-assurance that caused people to accept them and to like
3 them. They loved school, and strong grades came easily for
4 them, even in gifted and talented classes. They laughed easily
5 and they slept soundly, and they were voracious eaters. They
6 were physically and emotionally healthy. By every single
7 measure, they were thriving.

8 But in the months that followed that December 2018
9 direct message, I watched, helpless and, at the time,
10 completely clueless about the message itself and the cause in
11 my sons that ensued, as my once happy, confident children began
12 to fall to pieces. They became anxious. Friendships started
13 falling by the wayside. Grades started slipping. They stopped
14 laughing. They started struggling to sleep. Arguments between
15 the two of them became vicious and constant.

16 In early 2019, I noticed that the snacks and the
17 drinks that I packed in Charlie's school backpack were coming
18 home untouched. When I expressed concern and I asked for
19 answers about why, Sam told me that Charlie was no longer
20 eating or drinking at school because he was scared to use
21 public restrooms.

22 I started getting desperate text messages from
23 Charlie during the school day, pleading with me to let him come
24 home because he was having yet another panic attack. If our
25 family didn't cajole him constantly, Charlie would go days

1 without eating. He vomited frequently. He became very thin.
2 He stopped growing.

3 Sam changed as well. Once one of the most
4 single-minded, focused, and diligent people I have ever met, he
5 became nervous and hopelessly distracted, and hours of his day
6 were consumed with compulsive fidgeting.

7 As the months passed, things got worse with both
8 boys. Previously cautious and compliant kids, they started
9 behaving recklessly and engaging in self-destructive and
10 dangerous behaviors.

11 My husband and I were and are involved, diligent
12 parents. We were and are present, front and center, in all
13 aspects of our kids' lives, their school activities, sports,
14 Boy Scouts, everything. In the face of evidence that something
15 was very wrong, we asked questions. We expressed urgent
16 concern. We prodded the boys and pled with them for answers.
17 We begged them to tell us what was wrong.

18 In response, I now know motivated by a misguided
19 desire to protect Jerry and in a continued effort to put a
20 "friend's needs" above their own, they told us that they just
21 hated middle school, but that everything was fine.

22 We were not convinced. We met with school guidance
23 counselors, teachers, and coaches. Although we had always
24 checked our kids' phones on a regular basis, I became
25 aggressively nosy. It was because of that nosiness that I

1 finally discovered what was, in fact, wrong.

2 What I now know is that, after that initial contact
3 through Instagram, from December 2018 to April 2020, Jerry
4 Harris used Facetime and Snapchat to badger my young sons
5 incessantly to produce sexually explicit photos and videos of
6 themselves for him. He also relentlessly pushed them to engage
7 in sexual acts with him on Facetime and pled with them to meet
8 him in person for sex.

9 This was not mutual interaction between adolescents.
10 This was not sexting that we should all be concerned about.
11 This was not my sons' "misusing" their digital devices. This
12 was children who were being badgered and coerced by an adult.

13 In stark contrast with his public persona, Jerry was
14 not kind to my sons. He deliberately exploited Charlie's
15 insecurities and desire to be accepted. He used guilt and
16 manipulation. He threatened and pressured. If Charlie did not
17 respond to Jerry's messages immediately or if he tried to
18 rebuff his demands, Jerry accused Charlie of not loving him or
19 of using him.

20 Charlie's best qualities, his kindness, his empathy,
21 his compassion, his generosity, his impulse to put the wants of
22 other people above his own, all of these things were used by
23 Jerry for his sexual gratification. Jerry used everything that
24 was good in my son to trap him in exploitation from which it
25 felt to him like there was no escape.

1 These were not impulsive or occasional transgressions
2 on Jerry's part. His abuse of my sons was extremely persistent
3 and extended over 16 long months.

4 And my sons were not Jerry's first victims. Shortly
5 after our family spoke out, another mother contacted me to tell
6 me that Jerry had done exactly the same thing to her son years
7 earlier, when Jerry was a minor himself. The mother reported
8 this to leaders in the cheer community, but at the time,
9 tragically, the opportunity to hold him accountable and put a
10 stop to his predatory behavior before it became a firmly
11 entrenched pattern was missed.

12 We also now know that Jerry had been abusing Minor 5
13 for over a year, starting in August 2017, before he contacted
14 Charlie for the first time.

15 During the 16 months that he abused my sons, Jerry
16 got deep, deep inside Charlie's head, in particular. This is
17 no surprise as relentless as he was and as long as the abuse
18 went on. It is no surprise given that it was his voice
19 speaking in Charlie's ear, at times many times a day, during
20 the vulnerable period in which he was just beginning to come to
21 terms with his sexuality.

22 I now know that Charlie was unable to use a public
23 restroom for nearly three years, because when he was just 13
24 years old, Charlie assaulted him in a bathroom at a
25 cheerleading competition.

1 I now know that Charlie's anxiety surrounding gaining
2 even a single pound, his intense discomfort with every sign
3 that his body was maturing, his disordered eating, his frequent
4 vomiting, that all of these things started with his efforts to
5 preserve the extremely slender, prepubescent appearance that
6 Jerry admired.

7 Sam also received messages from Jerry. Sam also was
8 repeatedly pressured to produce explicit photos and videos. He
9 also had to struggle to escape Jerry's persistent and very
10 unwelcomed physical contact, including full-body hugs and
11 constant attempts to touch his butt and thighs when they
12 encountered each other at cheerleading competitions.

13 In addition, Sam was Charlie's only confidant for the
14 16 months of abuse that Charlie experienced at Jerry's hands.
15 Sam was overwhelmed with concern for his brother but was, at
16 age 13 and 14, completely unqualified to make decisions about
17 what to do or how to help. He shared Charlie's urgent desire
18 to keep this secret and protect Jerry from consequences. He
19 shared Charlie's intense shame and his sense of utter
20 isolation. He shared Charlie's terror about the devastating
21 social consequences of speaking out about somebody so
22 universally beloved, initially just by the cheer community, but
23 then eventually by the whole world. But Sam could see that
24 Charlie was falling to pieces, and he felt desperate to help,
25 and responsible for fixing the problem.

1 During the 16 months of their abuse, both my boys
2 were paralyzed between a rock and a hard place. On one hand,
3 every interaction that they had with Jerry left their skin
4 crawling and made them feel ashamed and dirty. There was
5 nothing about this relationship that was mutual or felt good.

6 On the other hand, immersed as they were in the
7 cheerleading community, they were surrounded by two very clear
8 messages. First, Jerry Harris was absolutely above reproach.
9 He was everyone's best friend, every coach's and every mother's
10 favorite, the heart of every team he was on, deserving of
11 special trophies just for being himself.

12 Second, what they were experiencing was par for the
13 course for boys in the sport. When they had hinted to friends
14 about what had happened to them or was happening to them, no
15 one seemed surprised or concerned. Although, in retrospect, it
16 is clear that Jerry was an exceptionally persistent perpetrator
17 of a particularly egregious form of abuse, the fact that an
18 adult male in the sport was seeking sexual interaction with 13-
19 or 14-year-old boys was not unusual.

20 Being stuck between the rock of what their
21 consciences were telling them and the hard place of a
22 perpetrator with an unassailable reputation who was committing
23 a crime that no one in their community seemed to recognize as
24 any big deal, left them feeling confused, powerless, and very
25 isolated.

1 This double bind kept them silent and deeply impacted
2 their ability to trust their intuition, assess risk, and form
3 trusting relationships. All of these things are harms that
4 persist for them to this day.

5 When my husband and I found out that Jerry Harris had
6 assaulted, abused, and exploited our sons and was doing the
7 same thing to other boys, we took action. We exhausted every
8 available private channel in our urgent efforts to stop him. I
9 provided the owner of Jerry's gym with proof of his abuse of my
10 sons. I filed two reports with the United States All Star
11 Federation. I contacted local law enforcement a dozen times in
12 a single month. I submitted myself to over an hour of
13 questioning by a team of attorneys hired by Varsity Brands, the
14 entity that controls virtually every aspect of the sport,
15 having been told that by doing so, I would be assisting in
16 their efforts to protect athletes and prevent abuse and
17 misconduct. Yet, I was shouting into the wind. No one put a
18 stop to Jerry, and his star continued to rise.

19 Within weeks, he catapulted from being a big fish in
20 a small pond of all-star cheer to interacting with Oprah and
21 Ellen, sharing a red carpet with A-list Hollywood celebrities,
22 and conducting interviews with the president. As his celebrity
23 and influence grew, so did his reach, and he continued to
24 victimize other boys.

25 When it became clear that months of private efforts

1 to put a stop to Jerry were not working, our family was faced
2 with a gut-wrenching choice: Keep quiet and put all of our
3 focus on my sons' own healing or speak out publicly in hopes of
4 saving other boys from the pain that my sons were suffering.

5 We were still wrestling with that decision when,
6 exactly two years ago, during Fourth of July weekend 2020,
7 Charlie could not bite his tongue any longer. He impulsively
8 confided in a group of people he thought were trusted friends
9 and told them what Jerry had done to him, describing it
10 truthfully in terms of abuse and assault. The response was
11 swift and it was severe. He was told to shut up. He was told
12 that someone needed to put him in his place. He was reminded
13 that Jerry's mother had died. It was made very clear to him
14 that everyone loved Jerry. No one would believe him. No one
15 would take his side. And if he persisted in these claims, that
16 he would lose every single one of his friends and his life
17 would be over.

18 Given this extremely hostile initial response to
19 disclosure that was an act of remarkable courage, a few weeks
20 later, when there was still no sign of Jerry being stopped, my
21 then 14-year-old sons sat down in front of bright lights and a
22 big camera and told a *USA Today* reporter the truth, knowing it
23 would be nothing but their word against that of a celebrity who
24 was loved by millions of fans.

25 My sons did this not because they had anything to

1 gain from speaking publicly. In fact, they had an awful lot to
2 lose. But because they knew that other children were being
3 harmed, and the adults in charge were not doing what needed to
4 be done to make it stop. As my son Sam said at the time, if no
5 one speaks up, then nothing is going to change.

6 What people don't realize is that public disclosure
7 is the last resort for victims. It is only employed when
8 private channels fail, usually because those in authority
9 refuse to act.

10 Our family would have given just about anything to
11 deal privately with the trauma perpetrated on my sons by Jerry
12 Harris. Unfortunately, we were robbed of that choice. The
13 entities that control all-star cheerleading took that choice
14 from us when they failed to put a stop to Jerry, despite my
15 multiple reports. Local law enforcement took that choice from
16 us when they failed to so much as return my phone calls,
17 despite my urgent and repeated pleas for help. Jerry himself
18 took that choice from us when he persisted in abusing other
19 boys, even when he was told by his gym owner that I knew what
20 he had done and he was being investigated.

21 Over the past two years, a lot of people have asked
22 me if I hate Jerry Harris, and the answer to that question is
23 no. To be honest, I have an uncomfortably mixed assortment of
24 feelings toward him. As a mother, I am heartbroken for him. I
25 have a very intimate understanding at this point of what sexual

1 abuse does to a boy, and I feel a deep sense of sympathy for
2 any victim of such abuse, including Jerry.

3 My husband can tell you, I have shed real tears for
4 Jerry and for the people who care about him dozens of times
5 since he was arrested. I am sincere in my appreciation for the
6 fact that he admitted to what he did, pled guilty to his
7 crimes, and did not drag my sons and his other victims through
8 a trial.

9 I absolutely understand that Jerry did not commit his
10 crimes in a vacuum. His attorneys have pointed out that
11 all-star cheerleading is an environment where sexual predators
12 are largely unchecked, and that Jerry himself was exploited,
13 manipulated, and sexually abused in this environment.

14 Through the civil legal process, our family has
15 sought to hold the entities that control all-star cheerleading
16 accountable for this culture of tolerance of abuse that exists
17 within the sport, and for their failures to protect athletes.

18 This fight has, of course, primarily been on behalf
19 of my sons, but we have fought on Jerry's behalf as well,
20 knowing that, as his attorneys so poignantly put it in their
21 memo, that the cheer community was both his lifeline and his
22 undoing.

23 It makes me very angry that the path to the reforms
24 that are necessary to ensure athletes' safety are going to be
25 made a lot longer in all-star cheerleading because the entities

1 in charge would like us to believe that Jerry Harris' crimes
2 are isolated occurrences, unique to him, as opposed to
3 acknowledging that he is a tragic product of a toxic culture.

4 Amidst all of this heartbreak and anger that I feel,
5 though, the overriding emotion that I experience is grief. I
6 grieve what has been taken from my sons and from our family.
7 Jerry took things from my boys that they are never, ever, ever
8 going to get back. He took their innocence. He robbed them of
9 the simplicity of late childhood. He exploited the good in
10 them and left them filled with self-hatred and shame.

11 Despite grueling efforts and therapy as a direct
12 result of what Jerry did to them, they are still intensely
13 uncomfortable in their own skin. No matter how upright their
14 conduct, they still feel soiled and dirty. Trusting others
15 feels dangerous to them. Being kind to others feels fraught
16 with the risk of exploitation. Countless days of Sam's life
17 have been lost to disassociation and compulsive behaviors.
18 Charlie still struggles to eat. He didn't grow for nearly
19 three years. And there's a good chance that his stature will
20 be permanently stunted.

21 At this point in their young lives, Sam and Charlie's
22 focus ought to be on algebra tests, Friday night plans with
23 friends, and finding a part-time job so they can afford a used
24 car. Instead, their day-to-day concerns include the unending
25 violations of their privacy and dignity associated with the law

1 enforcement and legal processes surrounding this case, cruel
2 lies and malicious gossip spread by zealous friends of Jerry's
3 who are still seeking to discredit them and avenge him, and a
4 constant daily effort required to create the appearance that
5 they are just normal teenagers.

6 My boys talk a lot these days about how much they
7 ache to just be normal. But the reality is no matter what
8 happens here today, their lives are never going to be
9 completely normal again.

10 "Hurt people hurt people" is a cliché that is often
11 trotted out to explain situations such as these. I have come
12 to really hate this saying, though, because it implies that
13 we're all nothing more than products of our past circumstances.

14 As Sam and Charlie have shown, we always have the
15 choice to use our pain not as justification or as an excuse,
16 but as an impetus to support and safeguard others who are
17 suffering similarly.

18 Jerry Harris is clearly a hurt person, but, as the
19 government has pointed out, his status as a victim does not
20 represent a blank check to commit sex offenses against minors.
21 His history, as tragic as it is, does not absolve him of
22 responsibility for the countless choices, small and large, made
23 over the course of many years as he relentlessly perpetrated a
24 pattern of harm from his own life into the lives of children,
25 seemingly either incapable of or unwilling to stop himself.

1 Justice cannot be served in this case without a
2 sentence that reflects the fact that, through Mr. Harris'
3 persistent, brazen, consciously-chosen, and carefully-planned
4 actions, he has effectively sentenced his victims not to six
5 years, not to fifteen years, but to a lifetime of consequences.

6 Thank you.

7 THE COURT: Thank you. If another person or persons
8 would like to step forward and make a statement, now would be
9 the time to do so.

10 (Minor 1's brother approaches.)

11 THE COURT: Good afternoon.

12 MINOR 1's BROTHER: Good afternoon.

13 THE COURT: We've been using certain code words to
14 describe people involved in the case. Often we've used the
15 term "Minor 1" or "Minor 1's brother."

16 How would you like to identify yourself? You are
17 entitled to privacy under our laws and statutes, but for
18 purposes of our record, we need to identify you.

19 MINOR 1's BROTHER: Minor 1 is okay.

20 MOTHER OF MINOR 1: You are not Minor 1. You are
21 Minor 1's brother.

22 MINOR 1's BROTHER: Minor 1's brother.

23 MOTHER OF MINOR 1: But you're also Sam.

24 THE COURT: Then I understand you'd like to make a
25 statement to me?

1 MINOR 1's BROTHER: Yes.

2 THE COURT: You may proceed.

3 MINOR 1's BROTHER: Thank you, Judge, for allowing me
4 to speak.

5 I am addressing you and the whole court today, but it
6 was easiest to think through what I needed to say by writing it
7 as a letter to Jerry.

8 Dear Jerry, over and over again in the sentencing
9 memo, your lawyers say that you have remorse, but I don't think
10 it is possible for you to have real remorse yet for one reason:
11 You have not heard directly from your victims about the actual
12 impact of your actions.

13 I think about now what you really feel is regret.
14 You wish you didn't do what you did because you are facing
15 punishment. But regret is different from remorse. In order to
16 feel remorse, you have to deeply understand how what you did
17 harmed another person.

18 I am here today because in order for you to ever have
19 the chance to be legitimately remorseful, you need to hear
20 directly from our family about the physical and emotional
21 impact of what you did.

22 You have forever changed the trajectory of my life
23 with your actions. I was once an ambitious 13-year-old, full
24 of joy and did not have a worry in the world. School came
25 easily. I had friends. And I was full of dreams about my

1 future. You took that from my brother and I when you literally
2 preyed on my brother and I like some animal that was hungry for
3 young, impressionable small children.

4 Your psychologist says that you weren't attracted to
5 children, but the first question that you asked every boy you
6 messaged was how old they were. You weren't put off when my
7 brother told you he was 13. Instead, you immediately asked him
8 for nudes. And then from there, you kept asking and asking,
9 constantly hassling and pressuring and manipulating us over for
10 a year.

11 I watched my identical twin become afraid to eat
12 because he was afraid that you would want -- that you would
13 stop wanting him if he lost the skinny, childlike physique that
14 you craved.

15 Your attorneys say that you weren't a pedophile
16 because you didn't search for child porn on your phone, but you
17 didn't need to search for porn on your phone. You had real
18 boys who you pressured constantly to take photos and videos and
19 send them to you. You had real boys that you coerced into
20 doing sexual stuff with you on Facetime and in person. You
21 exploited real children. You had real boys produce photos and
22 videos according to your instructions, specifically to satisfy
23 your sick kinks. In my opinion, that's way worse than Googling
24 child porn.

25 Because of our relationship with you, my identical

1 twin and I went from being extremely extroverted, confident,
2 creative, happy people to hating ourselves.

3 I firsthand watched my brother literally wasted away
4 physically and emotionally, and I watched his life being taken
5 over and consumed by doing everything he could to avoid hurting
6 you, all while you coerced him and groomed him multiple times a
7 day.

8 Jerry, you manipulated and pressured other young and
9 impressionable boys, too, a lot more boys than we are talking
10 about in court today. You knew what you were doing, and yet
11 you kept going, hungry for more innocence, innocence that
12 myself, my brother, and other boys will never get back. You
13 have robbed us of that.

14 Jerry, you even talked to my mom on Facetime and
15 wanted our parents to invite you to have dinner with our
16 family. You told us you could come to our home if one of us
17 would just have sex with you. It was so sick that you tried to
18 use my mom to manipulate us in that way.

19 You were so brazen. Nothing could get in your way.
20 No common decency or common sense could stop you from cornering
21 my brother into a bathroom stall, pressuring him to have sex
22 with you at a cheer competition, right before he was about to
23 go do warmups. Even when he tried to getting away and said
24 "No" over and over, you would not stop. Not even to mention
25 that this was his first year of cheer, ever. And it was one of

1 his first competitions, ever. And you made that an extremely
2 traumatic experience for him. I remember how shaken up and
3 distraught he was after that.

4 Jerry, you left me feeling so dirty and disgusted
5 about myself. After doing what you did to Charlie, you decided
6 to do it to me, too. Touching me in ways that I did not want
7 to be touched every chance you got, and trying to pressure me
8 into photos and sex with you. I should have been able to focus
9 on my team and my performance at cheer competitions, but
10 instead I had to constantly avoid you and struggled to get away
11 from you. I just could not believe, after what you did to
12 Charlie, you wanted to do the same thing to me.

13 Being Charlie's only confidant throughout that entire
14 time took a huge toll on me. It made me feel so trapped and
15 responsible. Because I was a little kid, I had no idea what to
16 do. I know what you were doing was wrong, and Charlie and I
17 wanted to do something, but we didn't want to hurt you. You
18 were consuming our innocence. I didn't care at all about how
19 you were hurting us. But all we could think about was how to
20 avoid hurting you or messing up your life. It is impossible to
21 explain all the ways what you did harmed me physically and
22 emotionally.

23 What you did to us was constantly normalized in the
24 cheer world. So at first, we thought the only way to move on
25 from this was to just deal with it, like we had been told by

1 other people. Then we realized that what you have done, Jerry,
2 was bigger than we initially thought; that you weren't just
3 doing this to us, but many other boys, too. It made us realize
4 that we could not stay quiet, that we had to speak up, no
5 matter how much it cost us, and it cost us so much.

6 We lost so many friends, and people made up so many
7 lies about us. Some of the lies are from random strangers on
8 the internet, but the worst ones actually come from people who
9 know you personally and are, to this day, trying to tear down
10 me and my brother because they still take your side.

11 That's the other thing that makes me feel dirty,
12 knowing that lots of people believe really nasty lies made up
13 by your friends about my brother and I.

14 That sense of dirtiness has given me crippling
15 body-image issues to the point where I stand in a mirror for
16 hours just crying because I feel so uncomfortable in my own
17 skin. Because of what you did to me and what I watched you do
18 to my brother, and all the lies that your friends have spread
19 about me since you were arrested, I developed PTSD along with
20 other physical damage, and now literally hours and hours of my
21 day get consumed with compulsions that I cannot stop.

22 I hate myself because I cannot stop, and I am so
23 ashamed. Every morning I wake up and the first thing I think
24 about is how much of my day is going to get wasted on
25 compulsions and whether I'll ever get over the crippling

1 anxiety stemming from PTSD.

2 At one point in time, I used to be so interested in
3 creative things like drawing and origami, and I had so much
4 life in my heart. It was easy for me to be single-minded and
5 to achieve all the goals I set for myself. I read books and
6 spent hours and hours on the trampoline mastering tumbling
7 skills, and learned about things that fascinated me, and
8 dreamed about my future. Those attributes of me quickly
9 disappeared when you came into our lives and were replaced with
10 constant spiraling anxiety and depression to the point where
11 doing simple things throughout the day seemed impossible. My
12 brain feels like it is completely different than it used to be,
13 and now I waste so much time on my compulsions that it is like
14 weeks and months are literally stolen from me.

15 I have panic attacks and used to have suicidal
16 ideations. Even though I am going to a really good
17 psychiatrist, we still haven't found the medications needed to
18 make my compulsions stop so that I can even live a seminormal
19 life.

20 You have made it feel so impossible for me and
21 Charlie to trust people. Even in casual friendships, we are
22 always on guard for how our trust could get exploited. We try
23 hard to make friends and to appear normal, but we cannot talk
24 about what's really on our minds, because if we do, it kills
25 the mood and makes other people feel uncomfortable and weird.

1 So instead, we just pretend that we are normal 16-year-olds.
2 Even though it looks like we are surrounded by people, we feel
3 isolated and alone.

4 I remember when it was so easy for me to make
5 friends. I remember when it was so easy for me to laugh. I
6 worry about whether I will ever feel that way again.

7 In the past couple years, I have missed out on so
8 much. I cannot remember the last time I have felt in control
9 and normal since I was a seventh grader. There has been so
10 many instances when I have had to lock myself in the bathroom
11 and hide in social settings because I felt so uncomfortable in
12 my own skin. And I have missed out on high school, because
13 simply showing up at school was too much for me. Me and
14 Charlie would frequently have to leave class because we would
15 be having panic attacks, and showing up at school was getting
16 too much for us.

17 When we started middle school, me and Charlie were a
18 part of a group of kids that the teachers expected to be in the
19 top 10% in high school. Now, because of everything we have
20 been through, we are barely class -- we are barely passing our
21 classes.

22 In contrast with us, everyone says that you were a
23 standout student in high school. And in one episode of *Cheer*,
24 you got recognized for getting straight As in college. And in
25 another, it showed you getting a scholarship to Louisville

1 because of your good grades.

2 That makes me confused about some of what your
3 lawyers have said about you. They talked a lot about you
4 having cognitive issues and a low IQ, and says that you're
5 delayed, and that you're basically a child, even when you were
6 19 or 20 or 21, but the whole time, we knew you had tons of
7 friends your own age. And it wasn't like these people were
8 friends of you because they felt sorry for you for being slow.
9 The truth of the matter is that you are actually way above
10 average when it comes to making people trust you and like you.
11 In that area, you are a genius.

12 You made me lose trust in the sport I love so much,
13 the sport that I've been dreaming about succeeding in literally
14 since I was seven years old. But we are determined not to let
15 you take our lives away from us, though, Jerry. A lot of
16 people expected us to quit cheer when we started speaking up
17 about what you did to us. But you have already stolen almost
18 everything from us. We weren't going to give up the sport that
19 used to make us happy.

20 We had to make -- we had to move to a new gym because
21 the people at our old gym didn't agree with us speaking out,
22 and now my mom has to drive almost 1,000 miles a week for us to
23 still cheer. At times, it causes so much anxiety for me,
24 because every time we go to competitions, we have to face the
25 people who still support you and whisper about us. The

1 organizations and people that minimized what you did and didn't
2 help us stop you are still in charge of the sport.

3 There have been many times when my trauma therapy was
4 scheduled too close to cheer practice, and I have had to run
5 out of practice in the middle of a full-out to throw up,
6 because my brain was still disregulated from therapy and I was
7 so anxious, but I did not give up.

8 In this past season, my team won World. That was a
9 big deal for me, because even though you've taken so much from
10 me, I proved that I am stronger than your abuse.

11 Thank you for letting me speak.

12 THE COURT: Thank you. If someone else would like to
13 make a statement, now would be the time.

14 (Minor 1 approaches.)

15 THE COURT: Good afternoon.

16 MINOR 1: Good afternoon.

17 THE COURT: I understand --

18 MINOR 1: Thank you for letting me speak.

19 THE COURT: You're welcome. I understand that you
20 are the person we have been referring to as Minor 1. Is that
21 right?

22 MINOR 1: Yes, sir.

23 THE COURT: And you'd like to make a statement today?

24 MINOR 1: Yes, sir.

25 THE COURT: Please proceed.

1 MINOR 1: Seventh grade is when my whole life was
2 changed. It was my first year of cheerleading. It was the
3 year where I came out as gay. I was a child, and I was
4 innocent, but I had a life. I loved and respected myself.
5 Even though I was kind of a weird kid, I felt good about myself
6 and my future.

7 In 2018, when I first started cheer, I was nervous
8 because I knew everyone would compare me to my identical twin,
9 Sam, who had amazing tumbling skills because he was in
10 competitive gymnastics before he started cheer. I was little
11 12-year-old Charlie. I had no cheer experience and no cheer
12 friends. I was not sexual, and I never sent nudes before I
13 knew Jerry.

14 At that time, I was not athletic at all. Because I
15 was insecure, I was really happy when, about six months into my
16 first season, Jerry reached out to me. He was a famous
17 cheerleader I knew from blogs on YouTube and from social media.
18 Everyone in the cheer world looked up to him and loved him. In
19 my naive brain, it seemed like he valued me and actually wanted
20 to be my friend.

21 Pretty much immediately, I felt wrong about what
22 Jerry was asking me to do, and I felt ashamed. But I did not
23 want him to not want me anymore, and I knew he would not want
24 me anymore if I didn't give him my body.

25 Basically, Jerry took over my life. He constantly

1 pressured me to take photos and videos for him. Sometimes he
2 badgered me many, many times a day. He also constantly wanted
3 me to get on Facetime or to meet him in person to do sexual
4 things. If I did not submit and give him what he wanted, he
5 would make me feel so guilty. He would say I did not care
6 about him or that I wanted him for fame, and neither of those
7 things were the case. The problem is that the only way I could
8 prove to him that that wasn't the case was to submit to
9 everything he asked of me, no matter how bad it made me feel.
10 This went on for almost a year and a half and made me question
11 myself every day.

12 At the time, I thought that I was in full control and
13 deserved to feel guilty and ashamed. Only recently have I
14 finally understood it was the exact opposite. I was a child,
15 and he was a grown man. We were both not young people. I was
16 not the one who should have felt ashamed.

17 Every cheer competition that Jerry was at, Sam and I
18 had to worry about avoiding him, because when he would see us,
19 he would not stop begging to have sex with us, and would grab
20 us in these hugs that were way too close and way too long. He
21 would touch our butts and other parts of our bodies and say
22 these creepy, suggestive things to us. He would actually have
23 to -- we would actually have to physically struggle to get away
24 from him.

25 To avoid him, I had to stress so much, and always

1 have my guard up at competitions to avoid him. When I couldn't
2 avoid him, things were so bad.

3 At the American Cheerleaders Association competition
4 in 2019, he followed me into the bathroom and locked me into a
5 stall with him and tried to kiss me and begged me to have sex
6 with him. At the time, he weighed at least a hundred pounds
7 more than I did. I repeatedly said "no." He continued to beg
8 and kept touching me and trying to kiss me. I literally had to
9 struggle to escape him and sprint out of the bathroom to get
10 away from him.

11 After that happened, the only person I could tell was
12 my identical twin, because I felt so ashamed.

13 There were a few times I tried to tell friends about
14 what was happening, but they just laughed it off and said that
15 it's weird, and that it happened to them, too, which made me
16 feel even more alone, for feeling like this was really wrong.
17 I knew in my heart and soul that what Jerry was doing to me and
18 Sam was bad, but everyone was telling me that's just the way
19 Jerry is. And if I ever were to report him to anyone, that
20 everyone would turn their back on me, because I would have
21 ruined the life of such an amazing person that everyone loved.

22 Being exploited every day and knowing that I could
23 not do anything about it, or if I did do something about it, my
24 whole world would be ruined, was incredibly isolating and
25 horrible. Actually, the words "isolating" and "horrible" do

1 not even begin to do the justice of what I felt. What I felt
2 can hardly be put into words.

3 I read that the definition of "shame" is the
4 intensely painful feeling or experience of believing that we
5 are flawed and that we are, therefore, unworthy of love,
6 belonging, and connection. That definitely explains what I
7 experienced.

8 Because of what Jerry did to my body and my mind, I
9 went from being a confident, happy little kid to having every
10 part of my existence taken over by shame. During this time,
11 everything about myself changed. I felt unworthy of doing
12 anything good. I hated myself. I lost all sense of belonging
13 and connection. My grades dropped, and I was failing classes,
14 even the ones that used to be my best subjects and I did not
15 even have to try on. I had regular panic attacks at school. I
16 could no longer use the bathroom at school or other public
17 places without getting extreme anxiety and throwing up. I
18 stopped eating so I didn't have to use the bathroom, so that I
19 would stay skinny, the way Jerry wanted me to be.

20 I distracted myself from everyone I was close with at
21 school. I distanced myself away from my twin and my parents.
22 When my family tried to talk to me about what was wrong or
23 tried to help me, I got angry and screamed at them and threw
24 things and slammed doors. I no longer wanted to do things that
25 were things that used to define myself. I no longer cared

1 about anything. I no longer wanted to wake up every morning
2 because I knew it would just be a repeat of the day before,
3 dealing with Jerry and battling my self-hating thoughts about
4 the whole situation. Yet, I thought, I couldn't make it go
5 away. Because every time I distanced myself, he would beg for
6 me and make me feel like if I didn't give myself over to him,
7 that it was my fault, and that he was angry. I did not know
8 any better. I had never been in a relationship with a gay man
9 before, so I thought this was normal.

10 Jerry Harris engraved in my 13-year-old mind that my
11 body was the only thing that was valuable about me, and that it
12 did not matter that I felt horrible about the way I was being
13 treated. I couldn't stand up for myself. I was told it was my
14 fault. I thought, when I felt bad about things, I was just
15 being too overdramatic or too sensitive, and that the problem
16 was with me.

17 Jerry made it seem normal that this kind of thing
18 happens to every gay boy in cheer, so therefore I should not
19 say anything. He definitely made clear to me that if I did say
20 something, I would ruin his life.

21 Having all of this cemented in my head at 13 makes me
22 feel like no matter how much therapy I get, no matter what
23 medications I take, no matter how much money my parents spend
24 to help me, that it will never go away and I will never be
25 normal.

1 It has been 1,312 days since that first message Jerry
2 sent to me, and I still have to fight for my life every day, to
3 convince myself that I am not a bad person, and that it was not
4 a little 13-year-old boy's fault for this happening to him.

5 I have done so much therapy, and I know that
6 everything I am feeling is normal for a person with PTSD, but
7 that doesn't make it any easier. I am finally slowly beginning
8 to overcome the shame, but now I am facing a new feeling,
9 mourning everything I have lost because of what Jerry did to
10 me.

11 It has been over two years since I have communicated
12 with Jerry, but I still hear his voice in my head every time I
13 look at my body in the mirror. When I look at myself, I still
14 hear the perverted things he would say to me and feel what it
15 felt like when he touched me.

16 I still judge myself according to his views on me. I
17 absolutely hate this. I do not want Jerry Harris living in my
18 brain. I don't want to hear his words anymore. Having him
19 engraved in my brain makes me feel violated over and over and
20 over again and makes it impossible for me to escape.

21 I would give anything to go back to 12-year-old
22 uncomplicated Charlie, the boy who would look in the mirror and
23 smile and feel proud of what he saw there, rather than just
24 seeing my body as an object of Jerry's lust. No matter how
25 hard I try, I cannot do that.

1 A while ago, I thought I was finally getting better
2 and there was a light at the end of the tunnel. I was at a
3 very special occasion with my extended family, and I went into
4 a crowded men's bathroom. I was trying to use a urinal, which
5 I haven't been able to do for years because of my PTSD.
6 Because there's a line for the stall and I didn't want my
7 family to wait for me, as I was standing there, I got
8 completely flooded by feelings and had the worst panic attack
9 I've had in a long time. Instead of us being able to take part
10 in the family celebration, my mom had to drive me around in the
11 car until I could stop shaking and crying. I was so
12 embarrassed and overwhelmed. And the feelings that flooded me
13 during the panic attack made me realize that there's a whole
14 new dimension of consequences of my abuse that I haven't even
15 started to work on in therapy, specifically my future sexual
16 relationships.

17 My therapist and I have worked so much on me being
18 able to eat again and helping me feel okay about gaining weight
19 and no longer looking like a child, but we haven't even begun
20 to work on my sexuality. Realizing that there is still so much
21 work I still have to do in order to be a happy person and have
22 a normal sexual relationship when I am an adult makes me feel
23 so exhausted and so helpless. Just like when I was still being
24 abused. At times, it's hard to get out of bed in the morning.

25 I have lost so much time as a child that I mourn

1 every single day. I had to quit cheering at my old gym because
2 people there disagreed with me and my family deciding to speak
3 out. The only true community I had at the time, I felt like I
4 had, was taken away from me for doing the right thing. To be
5 able to find a gym that supported me and Sam, we have to
6 commute two hours one way just to practice multiple times a
7 week.

8 I can't go to school, so I have missed out on so many
9 normal experiences. The kids I was close with since we were in
10 preschool have moved on with their lives. They are driving and
11 have part-time jobs and got to go out to prom and are talking
12 about which English teacher they hope to get next year, and are
13 still laughing about something funny that happened in the
14 cafeteria six months ago, and are at the beach together right
15 now celebrating the Fourth of July. Meanwhile, me and Sam are
16 left in the dust, left out of everyone's plans, driving
17 ourselves through online school and just trying our best just
18 to survive.

19 Since I was 13, life has not been the same for me.
20 And there's not been one night when I slept normally or one day
21 I don't feel hypervigilant and irritable and have constant
22 intrusive thoughts, not to mention all the other damages and
23 physical consequences that I have suffered.

24 I have zero regrets about speaking up. But what we
25 did by telling the truth should not be controversial. I should

1 not have to lose dozens of friends because I told the truth. I
2 have had thousands of people speculating about me and saying
3 that what happened was my fault and not Jerry's. People are
4 still making up lies about me and my brother. The
5 organizations and adults in charge of cheer have tried to
6 dilute what I have went through and have tried to make me back
7 down.

8 My mom now has a dangerous heart arrhythmia that
9 she's probably going to have to get surgery for. Her heart is
10 literally broken because of the stress of watching me and Sam's
11 lives get destroyed by this, because of her having to fight so
12 hard for us.

13 My dad had to move almost 200 miles away for almost
14 two years to get a job where he could earn enough that my mom
15 could work less so she could help me and Sam, so they could
16 still afford the expensive therapy that we need.

17 Every part of our family's lives have changed,
18 nothing is normal, but I refuse for what Jerry did to be
19 normalized. I refuse to be silenced any longer. The culture
20 of secrecy and abuse being normalized just encourages toxic
21 lifestyles and perpetuates trauma into more and more people's
22 lives.

23 There are a lot of people who are paying attention to
24 what happens to Jerry here today. The sentence he gets will
25 affect the way people will think about a type of abuse that is

1 becoming more and more common.

2 If he gets a lenient sentence, then other victims
3 will think exactly what I thought, that what they are just
4 experiencing is no big deal, that it is not real abuse, and
5 that they just need to keep quiet and try to get over it on
6 their own.

7 If he gets a strong sentence, however, then other
8 victims will know what I really wish I knew four years ago,
9 that what Jerry did is wrong and is a very serious crime; and
10 that if you speak out about doing this, that you will get
11 support, and the legal process will work in the way it's
12 supposed to.

13 Thank you, Your Honor.

14 THE COURT: Thank you. You may have a seat.

15 So next, we're at the stage of the case where I would
16 hear the defense argument on the application of the factors.
17 Then I would hear from the government's attorney. And then I'd
18 hear from Mr. Harris.

19 Does anyone need a break or would you like to start?

20 MR. PUGH: May we have five, Your Honor?

21 THE COURT: All right. We'll take another break.

22 Again, we'll -- there are a lot of moving pieces here, and it's
23 hard to just take a five-minute break, but if you could try and
24 keep it as close to five minutes as possible so we could
25 continue, I would certainly appreciate it.

1 We will be in a short recess.

2 (Recess.)

3 THE CLERK: Recalling 20 CR 637, United States versus
4 Harris.

5 THE COURT: On behalf of the defense, who will be
6 making the argument?

7 MR. PUGH: That would be me, Your Honor.

8 May I address you from the lectern?

9 THE COURT: You may.

10 MR. PUGH: Thank you.

11 (Counsel approaches.)

12 MR. PUGH: Your Honor, it was very moving to listen
13 to the testimonials of Minors 1 and 2 and the summation that
14 was done by their mother in this case. And I took some copious
15 notes during it. And, of course, there was the victim impact
16 statement written by Minor 5 in this case.

17 And some of the takeaways from that I believe
18 reaffirmed many of the central themes of the materials that we
19 provided Your Honor in this case. And I think the main one is
20 the one that I heard very loud and very clear, which is that
21 trauma and a person's reaction to trauma is not linear; and
22 that you heard the manifestations of what trauma that is
23 occasioned upon an individual, particularly a young individual,
24 and how it can manifest itself in a variety of ways, in a
25 variety of conduct, and a variety of acting out. And I think

1 one of the most important things to think about when we talk
2 about trauma is how it makes us think of ourselves.

3 You have heard those themes explored in all of the
4 victims' statements, and then you see it through the materials
5 that we provided you in this case, is that trauma causes an
6 individual to think less of themselves. And when that trauma is
7 compounded with shame, then the results are even more
8 egregious.

9 And the young men who courageously came up here today
10 and told you about the results of their trauma need to bear in
11 mind that what has resulted for them because of the actions of
12 Jerry Harris in this case, and as they stood before you today,
13 that was under the -- that was with the backdrop of what
14 appears to be a loving and perfect family, a family with
15 resources. These were young people that were given
16 intervention in the form of what they told you is trauma
17 therapy and other forms of therapy. And you know from the
18 materials you have been provided in this case it is absolutely
19 uncontradicted that Jeremiah Harris received none of that.

20 And the other central theme which was, I think,
21 consistent with some of the questions that you had for Ms.
22 Short during her testimony was this aspect of how might the
23 cheer community have contributed to the offense conduct here
24 and whether there was a perfect connection. And I don't
25 suggest that there is a perfect connection and a perfect causal

1 element here, but what I can say -- and now it is completely
2 uncontradicted -- is that the behaviors of the offense conduct
3 in this case, the crimes that Jeremiah Harris committed in this
4 case had been normalized in this community for a very long
5 time. And that was affirmed with the recent testimonials that
6 you accepted in this case.

7 THE COURT: Do you think that's mitigating?

8 MR. PUGH: I don't know if it's mitigating. I think
9 it is, though. Because it is absolutely uncontradicted that
10 Jeremiah Harris, starting at 11 years old, without adult
11 supervision, in a household where he was gay and not accepted,
12 and trying to understand his own sexuality, his own sexual
13 identity, the only teaching mechanism that was provided to him
14 under the circumstances was the internet and pornography,
15 unsupervised.

16 And, again, one of the things that we have to talk
17 about here is that in order for there to be disclosure, there
18 must be acceptance. And an individual who is not accepted will
19 never disclose.

20 And you know that the household where Jeremiah Harris
21 was raised was not a household where he could find acceptance
22 so that he can make disclosures. There was no opportunity to
23 say, "I was on the computer, and I saw these activities going
24 on, and I don't understand them."

25 Ms. Short told you that Jerry self-reported that at

1 11 years old, he was obsessed with the love stories that he was
2 seeing on the internet.

3 And we know what the ill-effects of pornography are.
4 We know what they are on adults, let alone on children, and
5 children where it's not being talked about and it's not being
6 supervised.

7 Add to that, you begin with online relationships
8 between a minor, minor Jerry Harris, and somebody much older,
9 through the internet, where he's being solicited and asked for
10 photographs of himself, prurient sexual photographs, to
11 somebody that he believed at the time was his "boyfriend."
12 And, again, nobody in the household to talk to about that.

13 When you look at the letters -- and I apologize. My
14 glasses keep fogging up, Judge.

15 But when you read the letters that were written by
16 Jeremiah's family of origin, there's a central theme that you
17 can pick up from there, very, I think in some cases, extremely
18 well-intentioned people. But even to this day, they never
19 describe Jerry as "gay." They use terms like he was picked on
20 because he "liked cheer." Or in one of the letters was he was
21 "funny." And I don't mean "funny" in terms of ha-ha. But
22 these are the terms. This was just a family that has never
23 come to terms with Jerry's sexuality.

24 And how was Jerry, at 11 years old, supposed to
25 understand his own sexuality? And he got some very bad lessons

1 and he encountered some very bad actors in an environment
2 which, Minor 1's mother told you, when it was self-reported by
3 them, they were told that that's just the way it is. That's
4 how this community is.

5 And I think, Judge, it is mitigating because it
6 explains, to a certain extent, how the conduct manifested
7 itself.

8 Justice Frankfurter said in *United States versus*
9 *Rabinowitz* that: "Where one comes out on a case depends on
10 where one goes in." And we have asked you, Your Honor, to
11 consider, first and foremost in this case, the concept of what
12 is just punishment.

13 And before you is a 22-year-old young man whose
14 offense conduct occurred between the ages of 18 and 20. That
15 he has unequivocally not had difficulties but been subjected to
16 repeated traumas throughout his life. And that has been
17 universal of everyone who has ever come into contact with him
18 since he was in kindergarten, that he was always a joyful,
19 kind, and a light in people's lives.

20 But one of the things that you don't read -- and I
21 think a closer inspection helps the Court -- is in his young
22 years, until he found acceptance in the cheer community,
23 despite the fact that his teachers liked him and he was a
24 helpful little boy, he didn't have friends. He was the child
25 that ate alone, and he was the child who was raised in an area

1 of differentness because he was different.

2 And the submissions given by the government in this
3 case and some of the statements that have been made here have
4 asked for a sentence that is harsh based upon the crimes. And
5 we talk about things like 72 months or 180 months or 120 months
6 or anything, or these numbers along these lines, because that's
7 how the federal system is designed. But what we're really
8 talking about here is a life. And that is the job that you
9 have before you today, is what impact will your decision visit
10 upon a very young person's life.

11 And that I have asked from time to time at a
12 sentencing -- and I got this from another judge. But when
13 thinking in terms of sending somebody to the Bureau of Prisons,
14 the Department of Corrections, or things along those lines,
15 sometimes a very helpful exercise, particularly for people who
16 are asking for many, many years, is to take out their phone, as
17 we all have, and open up the photo section of that phone that
18 we -- and my phone will go back ten or eleven years of photos.
19 And they're catalogued chronologically. When you look at that
20 chronology, that chronology of those photographs encapsulates
21 the moments in our life. And how many years would any of us be
22 willing to wipe out, to remove us from those pictures, to
23 remove us from those birthdays, those holidays, those
24 significant events to come up with something that is just
25 punishment?

1 And for the people that have come here to say that
2 there is some kind of lenience that is going to come out of
3 this courtroom, Your Honor, you know that that is not the case;
4 that as an entry-level position in this case, Congress has
5 mandated that Jerry Harris must serve at least 60 months in the
6 Bureau of Prisons. You already said it would be followed by a
7 term of eight years of supervised release. But there are a lot
8 of collateral consequences for this type of offense, and it is
9 important and proper for a court to consider what will be the
10 other consequences of this conviction and sentencing.

11 And for those who have asked that Jerry should serve
12 a life sentence, I assured them that he will. He will become a
13 registered sex offender. And, actually, under Illinois law, he
14 will be considered a child sex offender or a sexual predator
15 for the rest of his life.

16 Upon his release from the Bureau of Prisons, he will
17 never, ever be able to enter a park, a forest preserve, or any
18 place of public recreation. He will never be permitted upon
19 school grounds. He will never be permitted to be in the
20 presence of anyone under 18 years old without supervision.

21 In terms of where he might live, Jerry Harris can
22 never live within 500 feet of a school, a church, a daycare, or
23 any facility that provides services to persons under 18.

24 And for at least ten years after his release from the
25 Bureau of Prisons, under Illinois law, he shall have no contact

1 with any social media whatsoever. And this would include
2 employment-related or networking activities that would help
3 somebody to get a job or any other type.

4 For the rest of his life, he will be on a public
5 website so that wherever he lives, his neighbors will know that
6 he is living there.

7 His ability to get a job, to rent an apartment, and
8 to buy his basic necessities will be forever compromised. He
9 will live in constant fear of arrest for being in noncompliance
10 with SORNA. And if at any point he becomes homeless again, he
11 will, under the law, have to register with the local police
12 department every three days about his status as a homeless
13 person.

14 So, in other words, nothing -- before you even get
15 started with the analysis, which I know you have already
16 started, but before you even get started with the analysis,
17 this is the baseline, this is the minimum that can come out of
18 these proceedings.

19 And for those that are crying for long sentences and
20 to send a message, that is a big, big message and it is a
21 heavy, heavy consequence.

22 And I think it's important, and you already know
23 this, is that sentencing, contrary to popular belief, is that
24 the punishment does not fit the crime but, rather, as our
25 Supreme Court has said as recently as two weeks ago in *United*

1 *States versus Concepcion*, that: "There is a longstanding
2 tradition in American law, dating back to the dawn of the
3 Republic, that a judge at sentencing considers the whole person
4 before him or her 'as an individual.'" That: "Every case as a
5 unique study in the human failings that sometimes mitigate, and
6 sometimes magnify, the crime and the punishment to ensue."

7 What we've submitted to Your Honor, and the testimony
8 you have taken today, I would strongly suggest to you that this
9 case is a unique study in human failings. The first and
10 foremost failing is Jerry Harris' failure to comply with the
11 requirements of the law. That is the number one failing. And
12 he has accepted responsibility for that from the very
13 beginning.

14 And I feel terrible for Minors 1 and 2, when they
15 talked about what they were subjected to, and the lies from
16 other people after their disclosures, but they should know
17 this -- and as you know and the government knows -- from day
18 one, Jerry Harris has not lied. When Special Agent Goodman
19 interviewed him on the very first day, when the execution of
20 the search warrant, he freely admitted his conduct. He
21 accepted responsibility almost from the outset.

22 And the only delay in this case getting to the
23 position that it is today, really, was the global pandemic and
24 the shutdown and the inability to get services into the MCC, or
25 we would have been here much sooner. There was never, for a

1 moment, that Jerry Harris ever took the position that these
2 boys were liars or anything else.

3 So I want them to know that. And I know that Jerry
4 wants them to know that.

5 But I want to remind the Court and everybody here
6 that the offense conduct did occur at a time when Jeremiah
7 Harris was between the ages of 18 and 20. It was a time that
8 he was lawfully an adult. However, the Supreme Court has said
9 in both *Miller versus Alabama* and *Roper versus Simmons*, there
10 is still very much of an adolescent, of the adolescent brain,
11 and that Jerry Harris was very much an adolescent at the time
12 that he committed these offenses.

13 And I'll quote the Supreme Court: "Developments in
14 psychology and brain science continue to show fundamental
15 differences between juvenile and adult minds; for example, in
16 parts of the brain involved in behavioral control. We reasoned
17 that those findings -- of transient rashness, proclivity for
18 risk, and inability to assess consequences -- both lessened a
19 child's 'moral culpability' and enhanced the prospect that, as
20 the years go by and neurological developments occur, his
21 'deficiencies will be reformed.'"

22 And in this case, the offense conduct occurred
23 between the ages of 18 and 20, but if you reduce it, the core
24 offense conduct really occurred in the spring of 2019. That
25 was the time when the offense conduct peaked in this case. And

1 despite claims that there were other contact victims in this
2 case, there were not.

3 And despite Jerry's stunted emotional and cognitive
4 functioning, he has completely and thoroughly accepted
5 responsibility in this capacity. His remorse is genuine. All
6 of the character letters and videos that stretch back to the
7 first grade support the conclusion that being harmful to anyone
8 is the antithesis of who Jerry Harris is.

9 Now, there was something that was brought up earlier
10 about -- I think the government had made mention in their
11 filings that Jerry's situation had improved at some point,
12 while acknowledging that his situation before that hadn't been
13 so great. And I want to talk about that.

14 But I want to talk about -- a little bit about
15 failure. Because a person's failure, in this case, Jeremiah
16 Harris' failure -- and this is why the history and
17 characteristics of him are so important -- is that you really
18 can't measure someone's failure until you recognize the tools
19 that person was given for success.

20 In courtrooms such as yours, we have heard over and
21 over and over again the aggravating circumstance that somebody
22 had a good home, had a college education, had everything and
23 then chose to commit criminal acts. And that is particularly
24 aggravating. Because that is an individual who had the tools
25 for success and instead failed.

1 I don't think there's any argument here that Jerry
2 Harris was never, as a child, really given the tools for
3 success. If you go all the way back to his birth records and
4 his formative years, he not only was denied the tools for
5 success, but, in many respects, he was encouraged to fail.

6 And I just want to work backwards through some of the
7 high points of the trauma that Jerry experienced, and to ask
8 the Court to recognize that meaningful professional
9 intervention in these situations never really occurred. The
10 fact that he had an IEP in school and he had teachers that
11 cared about him did nothing to take away from the fact that
12 there was never any real professional intervention. Like you
13 heard earlier today, trauma therapy, psychiatrists, medication
14 management.

15 And there's a reason for that. And you'll read --
16 I'll talk about that in a second. But it's in the letters that
17 are submitted.

18 But, you know, at age 17, Jerry Harris was
19 essentially sold to the Whelans for \$1100 a month in Social
20 Security benefits. I can't imagine being a teen, or ask
21 anybody to imagine being a teen young boy or man, and realizing
22 that the only way that you would get out of the circumstances
23 you are in is that you would allow your father to keep your
24 \$1100 death benefit from your mother so that you could go live
25 at the Whelans' home.

1 And at 16 -- heard about this -- he didn't have any
2 money. Leaving Loyola Medical Center where his mother was
3 dying and taking a taxicab ride with a grown man who sexually
4 assaulted him in exchange for a hundred dollars.

5 And I think the bullying has been downplayed a little
6 bit through the review of the life chronologies.

7 Jeremiah Harris is an African-American boy who lived
8 in Bolingbrook, who went to a nearly all-white school in
9 Bolingbrook, from elementary school through middle school to
10 the beginning of high school. It is absolutely uncontradicted,
11 when you look at the school records, he was a kid who was
12 screaming and crying in the nurse's office not wanting to go to
13 school. And that he was bullied mercilessly, not just because
14 he was obese. And the fault of his obesity lies strictly on
15 the parenting that he received. That is a health crisis that
16 they visited upon him. He was bullied because we know he was
17 gay, and he was interested in things that the boys in this
18 not-so-progressive school in Bolingbrook, they didn't
19 understand either. But he was also bullied because of race.
20 There was a racial factor in here as well. They were one of
21 the few black families that attended this school. And that was
22 certainly an issue for Jerry as well. And this manifested
23 itself in a home that he got to come home to that was nothing
24 less than just dysfunctional.

25 When I look at his sister's letter that I submitted

1 to you, I mean, what she says is that Jerry was also bullied
2 because of his interest in cheerleading. But there's nothing
3 about being gay. It's a family that couldn't accept his
4 sexuality, even to this day.

5 At 13, he was sexually assaulted by a 19-year-old in
6 the cheer community, and the same school where he was so
7 mercilessly bullied for being poor and wearing funny clothes
8 and being overweight. Can you imagine the trauma there was
9 when the school bus pulled up in front of his house and all of
10 his family's belongings were sitting on the curb, as he had
11 been evicted? And that the family, just to highlight the
12 dysfunction of where he came from -- we all know, as lawyers,
13 the eviction isn't something you're surprised by. You know
14 it's coming. And that Jerry had no idea anything like this was
15 coming. His family had made no arrangements for what was to
16 occur. And most of their belongings were just gone. And they
17 began the process of years of living in and out of hotel rooms
18 around the area of Will County and DuPage County. And that
19 Jerry shared a bed with his mother right up until her death.

20 It was a household that was filled with domestic
21 violence and law enforcement activity. We've, you know,
22 sourced and collateralized all of that for you, Judge. He was
23 diagnosed with depressive disorder in the first grade at age
24 six. And this was the diagnosis, diagnosis with depressive
25 disorder, obesity, anxiety, crying fits with the nurse at

1 school because he was afraid to attend class. And there is no
2 evidence at all, no corroboration that from that age forward,
3 that there had been any meaningful psychiatric counseling,
4 medication, or anything else provided to this six-year-old
5 child.

6 Jennifer Houchens, who's here today and did provide a
7 letter and a video for the Court, has known Jerry since he
8 began in cheer in elementary school. And what she reports to
9 me is that: Everyone spoke well of Jerry, but he was always an
10 outsider at school who ate his lunch alone. He was never
11 invited to parties. It wasn't till much later when the girls
12 in cheer accepted him that he started to enjoy anything close
13 to a normal life.

14 And it really wasn't until he was a senior in high
15 school -- you read this in the letters -- that the moms and the
16 dads and the siblings in this cheer community really understood
17 how hardscrabbled things were at the house Harris-Bowman until
18 they went there and got him out of the hotel when he was a
19 senior in high school, and saw how this family had been living
20 not for an insignificant period of time.

21 And when the government suggests that his situation
22 got better, it did. But it didn't get better until he was
23 17-and-a-half years old. And it would be only six or seven
24 months before the offense conduct began in this case, and it
25 was when he was moved to be -- moved to the Whelans' home full

1 time. He was a senior in high school. He had been referred
2 for a neuropsychological examination at Central DuPage
3 Hospital. And you have that very dense report of what was
4 recommended. But what you don't have is any treatment plan of
5 how any of those were met, that there was any psychiatric
6 counseling that followed that.

7 You know, Jerry had a bright smile, which everybody's
8 talked about, and there's no doubt about it. He learned some
9 lessons. And Ms. Short talked about this a little bit. But
10 his mother taught him to hide the pain and hide the shame.
11 "Don't tell anybody we're homeless." "Don't tell anybody you
12 have a father." "Don't tell anybody you can't afford a winter
13 coat." "Keep our business to ourselves."

14 And on the issue of mental health, what does Deandre
15 Bowman tell you, Judge? "We didn't believe in medicine for the
16 mind. God was our counselor. We needed it, but it was
17 forbidden." The number one recommendation, when he was at
18 Waubonsie High School, was psychiatric counseling, but this
19 never occurred.

20 As I mentioned earlier, this case is not just a study
21 of human failure, but it's also a study in system failure.
22 Shannon Young talked to you about it. Minor 1 and Minor 2
23 talked to you about it. And Minor 1 and 2's mother talked to
24 you about the system failure for the cheer community.

25 But there was also a system failure for the

1 Harris-Bowman family. Absolutely uncontradicted, that for at
2 least a decade, if not more, there needed to be an intervention
3 in this family and the way the family was living and what was
4 going on there. And as far as they can tell, in the materials
5 that we reviewed in this case, the only intervention that
6 happened was the execution of a couple of search warrants at
7 that house. But there was no DCFS intervention. There were no
8 resources given to this family. Somebody needed to intervene.

9 And part of it's a system failure, but part of it, I
10 think you've discerned, is a failure of Lizzie Bowman and her
11 inability to ask for help, and her ability to keep secrets, and
12 to isolate Jerry from his family of origin and his extended
13 families.

14 It was absolutely clear from looking at Jerry's birth
15 records, as it says, I believe, in no uncertain terms, that his
16 early birth, his low birth weight, and his respiratory failure
17 that he found himself in as a premie was directly tied, it
18 said, to maternal neglect or maternal fault.

19 So for the people at the hospital, they knew at that
20 time that Jerry was going home to a household that was
21 ill-prepared for this child, and that Jerry would need services
22 for mental health, his physical health, and his sexual health.
23 All of our research demonstrates that these interventions never
24 really occurred.

25 It shouldn't be any surprise, Judge, that Jerry did

1 flourish his senior year in high school. As Ms. Short alluded
2 to, and I think you now know -- and I think this is incredibly
3 important for you when you start thinking about the issue of
4 rehabilitative potential and when you start thinking about
5 whether or not a custodial or noncustodial punishment is
6 appropriate -- when Jerry was given direction and he was given
7 supervision, he did some pretty amazing things. You saw that
8 he took himself from pretty much a D student to a 3.5 average
9 at Waubonsie High School his senior year.

10 You heard that at one point in time, Jerry was 380
11 pounds at age 15. Yet, he got himself in some reasonably good
12 shape by the time he was a senior in high school so that he
13 could go to college.

14 And how about the fact that Jerry actually went to
15 college?

16 When you look at those school records that are there,
17 you see this is a kid who missed anywhere from 38 to 48 days
18 every single year in school and was always lagging behind, but
19 after the death of his mother and this intervention occurred
20 with his extended cheer family, and they began to give him
21 structure, and at least several nights a week he was allowed to
22 stay at their home, where there were clean clothes and
23 functional families going on, and the tutoring that went on
24 with his cheer siblings to get his grades up, that he was able
25 to raise his ACT score by four points. It's nothing short of

1 miraculous that he was even able to go to Navarro College in
2 this case. But what it demonstrates for you, Judge, is that
3 this is a guy who will follow the rules. He has been
4 incredibly invested in therapy since his incarceration in this
5 case.

6 But one of the things, and a ringing theme here, is
7 when did Jerry's offense conduct start? His offense conduct
8 started after he got to Navarro. And his support network that
9 had kind of grown around him from the death of his mother until
10 he graduates from Waubonsie High School, that peaks halfway
11 through his senior year. He gets removed from that fairly
12 quickly and now he's alone. He's living in Texas, and he's at
13 Navarro, trying to compete on this team at this junior college
14 down there, and that's when the offense conduct really started
15 in this case.

16 And it was during the time that he was without the
17 net, without the sort of village that was being built around
18 him, a time when acceptance had begun and disclosure could
19 start to happen. Because we don't disclose to people that
20 don't accept us. And he really was in a new environment.

21 But it's uncontradicted that that is when the offense
22 conduct happened. And I would suggest that the evidence in
23 this case is that the offense conduct kind of was a bit of a
24 curve that went up and started to sort of go down a little bit
25 probably during the period of time that he was brought out of

1 college, back home to the Whelans in the late spring of 2020,
2 which is at the tail end of the offense conduct in this case.

3 And I don't know what your impression is on this, but
4 there are stipulated offenses in this case that I think range
5 in terms of seriousness and harm to the victims in this case.

6 And I have listened intently to the victims that have
7 presented themselves before the Court, and there are victims who
8 have chosen, for one reason or not, to present themselves to
9 this Court.

10 But the conduct in the summer of 2020, that what Dr.
11 Hutchinson described as between a 20-year-old and a
12 17-year-old, from my perspective -- and you may disagree with
13 me -- is very different than a 19-year-old and a 13-year-old,
14 or even a 19-year-old and a 15-year-old. But nonetheless
15 offense conduct, as you will.

16 But in many respects, as Coach Ernie Valdez says,
17 that while Jerry was chronologically 18, his emotional and
18 social growth had been stunted by trauma, and he still needed
19 the support and guidance of a 15- or 16-year-old.

20 This is what Ernie Valdez said about Jerry when he
21 was leaving for college to Navarro, is that he, who had known
22 him since he was nine -- and you know that from the letters
23 written by Coach Valdez -- who had seen Jerry -- Jerry was --
24 remember, Coach Valdez described Jerry as a kid who showed up
25 at a gym where he was unsure whether he was a boy or a girl.

1 But knew him since age nine. And Coach Valdez was the one who
2 said that Jerry wasn't ready to go away to college from his
3 perspective. And the fact that he was behind the curve by a
4 couple of years, I think, is well-sourced.

5 THE COURT: Let me interrupt with a question that --

6 MR. PUGH: Sure, absolutely.

7 THE COURT: -- crossed my mind in response to what
8 you said about Mr. Harris being -- having the capacity to be a
9 rule-follower.

10 Do you want to comment at all about the report of
11 some discipline while at the MCC? It's paragraph 15 of the
12 PSR.

13 MR. PUGH: Exactly. I can comment on that.

14 What happened in that situation -- and we were
15 intimately involved with Mr. Steele and legal counsel -- is
16 that Jeremiah had been threatened by an organized-crime figure
17 to take certain action that he didn't know about and to accept
18 a package on behalf of another one. I guess, it turned out,
19 the MCC knew about it the entire time. They absolutely knew
20 that Jeremiah was being exploited in that situation, and it was
21 resolved in that manner.

22 THE COURT: Thank you.

23 MR. PUGH: Which brings me to an interesting point
24 when we talk about collateral consequences. And the victims
25 coming in here and, you know, wanting to make sure that

1 punishment is severe in this case.

2 I don't need to tell you -- and you understand
3 this -- that Jeremiah going in as a relatively well-known
4 person, who is gay and has been convicted of child sex
5 offenses, his time in the Bureau of Prisons is going to be much
6 more difficult than say it would be for somebody on a drug
7 offense or a mail fraud offense or something along those lines.
8 They will be tough years for him.

9 And I think that brings me to one of my -- getting
10 close to one of my final points in this case.

11 Based upon Jeremiah's history and characteristics,
12 where he came from, domestic violence, the -- you know, just
13 the hunger, the obesity, everything that you see in Jerry's
14 life, I don't think any of us would have been surprised that
15 when he got to Navarro, that maybe he had developed a drug
16 problem and began to self-medicate, as many people do who are
17 suffering from untreated depression, untreated ADHD, and
18 untreated trauma. I think probably if that had been the case
19 and he had acted out like many people who find themselves
20 addicted to a controlled substance do over time, I think we
21 would have found a greater degree of compassion for him. But
22 Jerry committed crimes against children, and for that, society
23 has very little compassion, regardless of the facts and
24 circumstances that led to it. And it is understandable.

25 But you did ask some questions earlier, Your Honor,

1 about sort of connections. And I think it's important to
2 recognize here that while Jerry didn't become a drug addict, he
3 didn't join a street gang because he didn't have any family,
4 didn't have any love -- you know, we've heard all of that
5 before -- he acted out in a sexual way. But his acting out in
6 a sexual way was because his trauma, looking at his history and
7 characteristics, was very much sexual and intertwined.

8 We have a sexual identity issue in terms of not being
9 able to understand, for instance, as a young boy, like, "Why do
10 I like boys? "And why does my mother say that's a sin?" You
11 remember some of the letters and the materials supplied to you
12 in this case that there were a couple of occasions where Jerry
13 had actually tried to disclose, but as he started to do it, he
14 had to change it to he was talking about somebody else because
15 the mother told him the bible -- you know, bible forbid that.

16 So that's the lesson of the 11-year-old, right? "How
17 I feel, who I am is a sin, and that the only person that I
18 really feel close to and I love, if she knew that about me, she
19 would reject me." That is trauma.

20 In addition, there was a moment where, after Jerry
21 was sexually assaulted by the cab driver while Lizzie was
22 dying, that he did try to tell one of his friends about it, but
23 as he started to tell the story, her mother intervened and
24 wanted to call somebody. He was deathly afraid of, like, law
25 enforcement involvement and everything like that under those

1 circumstances, so he told the story as if it happened in
2 another way and he went back to, you know, smiling, happy
3 Jerry. And that's his defense mechanism and his coping
4 mechanism. But when you compound that with the sexual abuse
5 that he received, the unsupervised access to gay pornography,
6 the exploitation that happened to him in terms of being
7 solicited, you know, pictures of his body parts as he was a
8 child, that trauma gets wrapped up in his dysfunction and it
9 manifests itself in a certain way.

10 And I heard it when Minor 1 was talking, and I was
11 really, really moved by this. He mentioned that the trauma
12 that was occasioned upon him by Jerry Harris has affected his
13 sexuality, his view of his sexuality and his view of
14 relationships.

15 So I don't think it's a stretch to say that if you
16 have a child that comes from this environment, like Jeremiah
17 Harris does, you put them into a position of sexual
18 dysfunction, then you sexually abuse them, I don't think it's
19 surprising that we might find that individual, particularly
20 when removed from their support network, would act out. And
21 perhaps have some very twisted views of themselves as a human,
22 who they are sexually, how they relate to persons of the same
23 sex versus persons of the opposite sex, and really that kind of
24 blurry area of what is right and what is wrong. Because I
25 disagree with Dr. Hutchinson's conclusion that Jerry was

1 oblivious to the wrongness to it. I mean, I disagree with
2 that. But, you know, she -- that's her lane, so she gets her
3 lane.

4 Because I know in the time that I spent with Jerry
5 Harris, is that he certainly did know the things were wrong.
6 And, actually, in February of 2020 -- you know this -- that he
7 asked Minor 1 for forgiveness and that, "We shouldn't talk
8 anymore." There was certainly an acknowledgment by the time
9 he's 20 years old that what was going on was wrong. And there
10 has been a constant and consistent acknowledgment from the
11 outset of this case that what he did was wrong and that his
12 remorse is genuine.

13 And I know that some might say: Well, it's regret.
14 It's not remorse. It is remorse. He has been in custody. He
15 was taken into custody during the pandemic. And despite all of
16 that, begged -- we had to get orders to get a psychiatrist in
17 there to see him, to start giving him some therapy and
18 treatment because of the isolation and the absolute remorse
19 that he was feeling for his actions, and the help that he
20 wanted to get.

21 And whether we like it or not, Judge, everybody in
22 this courtroom, the government, me, everybody here, we are all
23 stakeholders in the lives of our fellow citizens. And in
24 particular, we are stakeholders in the success of Jerry Harris.
25 Because regardless of the sentence that you pass today, Your

1 Honor, Jeremiah Harris will return to society. And there is an
2 obligation under the Sentencing Code and there is a moral
3 obligation of society to make sure that individuals that are
4 punished for their wrongdoing are given an opportunity to be
5 successful after that punishment has been served.

6 And you know that one of the key indicators of
7 Jeremiah Harris' future success in this case is the 40-plus
8 people who have showed up here today, the 70-plus people who
9 provided you letters in this case. The overflow room has
10 plenty of people down there as well, all of whom really wanted
11 to come in here and speak, and they were persuaded that the
12 materials you were given and the videos were going to be
13 sufficient, and we didn't need two days of testimony. But
14 they're all here, and each and every one of them would stand up
15 here today.

16 And there was this issue floating around earlier that
17 somehow these people must not have known what Jerry did. I
18 take issue with that. Because from the detention hearings in
19 this case in the very beginning, when the criminal complaint
20 was unsealed, from the indictment in this case, every single
21 one of those people were on the call.

22 You remember our statuses, how many people would be
23 on the phone call. They know exactly what Jerry did.

24 And I'll tell you this about Jerry. Despite a
25 criminal case pending, Jerry never held back. When he was

1 given the opportunity, once COVID restrictions lifted and he
2 could start to see his extended family, he was candid, and he
3 told them exactly how he felt about what he did and exactly
4 what he did.

5 So when all of these individuals were doing their
6 videos and writing their letters, they know exactly what Jerry
7 did.

8 And bravo to the courage of Minors 1 and 2 and their
9 mother. Unlike most cases, what happened to them was global
10 knowledge. At the same time that Jerry was being arrested, *USA*
11 *Today*, as she referenced, did a huge article. Everybody in the
12 cheer community knew what happened. And for that reason, the
13 people that wrote character letters in this case, they were not
14 operating under any illusion who the person was who they said
15 "can come and stay in my house anytime."

16 But I ask you, Your Honor, if we want him to be
17 successful, if we want him to still have that light that
18 everybody, even the victims in this case, say that he has, we
19 have to give him an opportunity to exit the Bureau of Prisons
20 and to have a support network around him. But the supporters
21 for him are people who are currently in their 50s and the sibs
22 are currently in their 20s. If we are to push Jerry away for
23 an excessive number of years, I don't know whether that network
24 is going to be there. People's lives change. They get older.
25 But they're here now. And they stood here for two years, and

1 they know that they're going to stand here for at least another
2 five or six or seven or eight or whatever it takes.

3 But sometimes the type of numbers that the government
4 suggests in this case, 180 months for an offender who committed
5 his crimes when he was barely an adult, and fully accepted
6 responsibility, has gotten help and, as Special Agent Goodman
7 said -- you know, he echoed what everybody else said. This
8 young man has a great sense, a great chance at rehabilitation.
9 And you can probably sit up there a long time before an FBI
10 agent is going to say that about a defendant in a case. But he
11 said it in this case. And few people know as much about the
12 nature and circumstances of the offense as, of course, the case
13 agent would.

14 But that's what everybody has to say about Jerry.
15 And we just have to make a decision that do we want to just
16 extinguish the light that is Jerry Harris? Because there is a
17 significant period of time that he can be placed in the Bureau
18 of Prisons that the light that is him will be extinguished, and
19 he will leave the Bureau of Prisons a bitter and damaged,
20 forever really damaged, human being. And I don't think anybody
21 wants that. I know that it would not be consistent with the
22 goals of sentencing.

23 And I listened really carefully to the victims in
24 this case. I don't think they want that either. They don't
25 want Jerry broken beyond repair.

1 There's a punishment to be had here. We've asked for
2 72 months followed by a substantial term of supervised release.

3 I did not come in here and ask for the minimum. And
4 we gave a lot of thought to that. Because this isn't a minimum
5 case, but it is by all -- by no means is it the type of case
6 that you would lock somebody up for so long that they'd have
7 nothing when they got out.

8 Thank you, Judge.

9 THE COURT: Hold on. I've got a question for you.

10 MR. PUGH: Oh.

11 THE COURT: What you just said at the end anticipated
12 my question of you, which is, why haven't you asked for the
13 minimum?

14 You've said this is not a minimum case. And it's a
15 difficult position to put you or anyone in to explain how you
16 arrive at numbers or recommendations. Ultimately, I am the one
17 who has to do that. And I was wondering, given the
18 presentation, how did you arrive at the recommendation you
19 arrived at, which is to impose a sentence that is not the
20 minimum?

21 And within that, in response to some of your comments
22 about what the government is recommending, as you've
23 characterized it as severe or harsh, it is worth putting that
24 in the context of what the government did in this case, which
25 is drop charges that would have required a 15-year sentence,

1 and that the government's position in this case is to not
2 recommend what the guidelines would otherwise recommend in this
3 case.

4 So everyone has staked out positions that are
5 different than what the law requires at a minimum or at a
6 maximum. And there has been a plea agreement here that has
7 arrived at a statutory range that was different than what the
8 charges originally warranted.

9 So in that context, to -- and if there's really
10 nothing more to say other than what you have said --

11 MR. PUGH: No. I'm happy --

12 THE COURT: -- that's fair, but it's --

13 MR. PUGH: I'm happy to explain.

14 THE COURT: I think it's worth exploring a little
15 bit.

16 MR. PUGH: Absolutely.

17 So, as you are aware from the status reports that you
18 were provided during the pendency of this case, we spent a long
19 time preparing for and providing the government with mitigation
20 materials, and then a mitigation pitch session, a very long,
21 thoughtful one, more so than any one I've ever been involved
22 in. And I think for all the lawyers that were present, said
23 more so than they've ever been involved in.

24 And, you know, without talking about too much inside
25 baseball, of course, there were discussions that were had in

1 there which caused a level of thoughtfulness. And as a lawyer,
2 sometimes I believe that just coming in and asking for the
3 minimum demonstrates a certain lack of thoughtfulness. That
4 is, of course, I'm the defense. I'm going to ask for the
5 minimum. But we had an opportunity to spend a lot of time with
6 Jerry and talk to him about what his sentencing options were,
7 what is available.

8 I will admit some surprise that, you know, that we
9 fought very hard to get the statutory floors dropped -- and not
10 just one floor, but two floors -- and then to get a
11 recommend -- to get an argument for basically what was the
12 floor before. But that's their prerogative. They are the
13 Executive Branch, and they can do that.

14 But in thinking about the time that Jerry spent in
15 custody, and particularly because of the time that he spent
16 during COVID, and didn't have as great of access to services as
17 he does now, and was able to, it was our impression that, based
18 upon sort of the nature and circumstances of the offense and
19 history and characteristics of Jerry, that we didn't believe
20 that asking for the minimum sentence would -- in doing so, I
21 think we would have sent a message to you, Judge, that we
22 hadn't given this enough thought.

23 And we have given it a lot of thought. And before we
24 made that request of you, we had full buy-in and ownership from
25 Jerry Harris.

1 So -- and I think that's important for the victims to
2 know, too, is that Jerry didn't say, "Get me as little as you
3 can get me." I mean, there was still meat on the bone, you
4 know, to use a term. And he was in agreement that the request
5 to you was a thoughtful request of the 72 months followed by
6 the term of supervised release that we had asked for, but is
7 fairly consistent with what you're thinking about anyway.

8 THE COURT: Thank you, Mr. Pugh.

9 MR. PUGH: Did you have additional questions?

10 THE COURT: I did not. Thanks.

11 MR. PUGH: Thank you, Your Honor.

12 THE COURT: Ms. Guzman?

13 (Counsel approaches.)

14 MS. GUZMAN: Thank you, Your Honor.

15 The United States is respectfully requesting today
16 that the Court impose a sentence of 15 years.

17 We've had several hours of defense presentation
18 today, mitigation materials. All of that information that was
19 presented through testimony and videos today was already known
20 to the Court and to the government before we got to this
21 hearing today. It was taken into account in the government's
22 recommendation of 15 years. And that is why the government's
23 recommendation is so, so far below what the guidelines range is
24 here, which is life, and brought down to 50 by the statutory
25 maximum.

1 So I want to take some time today and focus my
2 remarks on why the government's position is that an eight-year
3 sentence is not sufficient to achieve the sentencing aim set
4 forth in 3553 and why 15 years is necessary.

5 We have heard a lot about Mr. Harris' status as a
6 victim himself, and the government acknowledges and agrees that
7 that is powerful mitigation in this case, and certainly a
8 significant factor in bringing Mr. Harris to this moment. He
9 had a difficult childhood and a difficult upbringing, to say
10 the least. He has experienced trauma. It has affected him.

11 I also agree that, in mitigation, he was forthcoming
12 with law enforcement and participated in an interview
13 immediately, did not lie about his offense conduct. That is
14 also significant mitigation.

15 But his status as a victim and the things that
16 happened to him in childhood are not a blank check for him to
17 commit crimes against other people in adulthood. It does not
18 give him a right to visit that same trauma on others.

19 And the presentation literally started with his birth
20 certificate today. There is a lot of daylight between the
21 early childhood developments and the early childhood trauma and
22 the year 2020 when Mr. Harris was committing the offense
23 conduct.

24 Since then, he has had a lot of advantages. And this
25 Court sentences defendants every day who begin, unfortunately,

1 in Mr. Harris' circumstances, the circumstances like that.
2 It's sad how often it happens. People are abused and neglected
3 and brought up in terrible neighborhoods, in poverty, are not
4 given the love and support and acceptance that they need, are
5 not taught right from wrong, and are living under desperate
6 circumstances for years, for lifetimes when they commit offense
7 crimes in federal court.

8 But Mr. Harris had had some advantages, especially in
9 the years leading up to the offense conduct that this Court
10 needs to acknowledge.

11 When his mother passed, the cheer family raised
12 \$28,000 to keep him in college and to keep him in cheerleading.
13 And so he was able to continue in this sport that he loved and
14 able to continue getting a top-flight education. He lived part
15 time, and eventually full time, with a loving family in an
16 affluent suburb. And there, he was able to find friendship and
17 belonging, acceptance of his sexuality. His basic needs were
18 met.

19 I have never seen so many people in court supporting
20 a defendant. He has almost a hundred videos or letters
21 submitted on his behalf in this case. And those are all people
22 who were there for him and who loved him at the time that he
23 committed these offenses.

24 He had access to therapy and support services. And
25 he had achieved massive success in his sport. He won awards

1 for cheerleading. He went to college at Navarro, which has a
2 premier cheerleading program in the country. And he had
3 academic success, too. He got a scholarship to University of
4 Louisville based on his grades.

5 And finally, he achieved fame. Even before the
6 Netflix series aired, Minor 1's mother talked about the fact
7 that he was very well known in the cheerleading community.
8 There was a YouTube channel that focused on his team and
9 focused on him. After the *Cheer* series aired, he earned over
10 \$500,000 in endorsements.

11 So at the time that Mr. Harris committed these
12 offenses, he was not in need. He was not in a state of
13 desperation. And his difficulties in his early life, as
14 substantial as they were, were in the rear-view mirror for him.
15 He was flourishing at that time. He had every reason not to
16 commit this crime, and he did it anyway.

17 And I think one of the most important factors for the
18 Court to consider today is deterrence.

19 Now, the Court's received two psychological
20 evaluations here that both find him at low risk of recidivism,
21 but these reports should be given very little weight.

22 Dr. Hutchinson's report gets basic facts wrong.
23 Minors 1 -- I'm sorry, Minors 2 and 3 are victims. Mr. Harris
24 reached out to Minor 2, bothered him for hours for sexually
25 explicit photos. When Minor 2 refused to do that, he

1 unfriended him for two weeks, came back two weeks later and
2 asked Minor 2 for photos of his butt for three hours. It
3 wasn't until Minor 2 persisted in saying "No" that Mr. Harris
4 then offered to pay Minor 2 and to induce him with the money
5 that he now had, because he had been paid these endorsements
6 for the Netflix series.

7 Dr. Hutchinson's report characterized this completely
8 inaccurately. Characterizes Minors 2 and 3 as reaching out to
9 Mr. Harris, is asking him for money, and as playing a game.

10 And I think the Court has to just dismiss the
11 opinions of an expert who is totally rewriting the facts in the
12 case. That report also ignores most of the offense conduct.
13 It talks about sexting. It talks about sending nudes. But
14 that's not what happened here. And it's our job today to do
15 what the mitigation experts didn't do and get the facts right
16 and look them in the face.

17 In this case, Mr. Harris pressured these boys for
18 months and months to keep sending him sexually explicit photos
19 of themselves for his own sexual gratification. It wasn't just
20 photos. It was videos. It was Facetime calls where he
21 pressured them to perform live for him, and gave them direction
22 on how to masturbate for him.

23 And when they said they didn't want to send a photo,
24 or when they said they didn't want to do a Facetime call or
25 send a video, he pressured them, he manipulated them, he

1 guilted them. He made these boys who were three, four, five
2 years younger than him feel terrible about themselves.

3 And he threatened to post those photos. Minor 1's
4 brother and Minor 5 both independently reported that Mr. Harris
5 threatened to post the photos that they'd been giving if they
6 did not keep sending him sexually explicit photos.

7 He groomed these boys for months for in-person
8 contact. It wasn't even just the nudes that are discussed by
9 the so-called experts in this case.

10 At 19, Mr. Harris lured a 13-year-old boy into a
11 bathroom and attempted to get him to have sex with him there.
12 Minor 1 ran out of the bathroom and literally escaped from Mr.
13 Harris that day. But Mr. Harris tried to get him to meet
14 again -- the first time was in January or February, the second
15 time was in May of the same year -- at another bathroom at
16 another cheer competition.

17 He successfully lured, at that same competition, a
18 15-year-old boy into that bathroom, into a bathroom stall.
19 Turned him around and anally penetrated him against his will.
20 He told that boy after that happened, "You should've cleaned
21 out to prepare for this."

22 That is the offense conduct in this case. Not
23 sending nudes. Not sexting. We shouldn't be talking about
24 sexting because it's not what happened here.

25 Dr. Hutchinson found that Mr. Harris was -- had

1 developed an addiction to sex in order to manage the difficult
2 emotions that came up from his trauma and his upbringing, but
3 didn't recommend any sex offender treatment, didn't recommend
4 any term of incarceration. Essentially concluded that it was
5 enough that cheerleading was taken away from him.

6 If somebody is addicted to sex to the degree that it
7 drives them to commit these offenses, sex offender treatment is
8 obviously necessary. And this Court can't give much weight to
9 a report that says otherwise.

10 Likewise, Dr. McGarrahan's report is problematic.
11 She concludes that Mr. Harris is not attracted to children and
12 does not bear any indicia of pedophilia.

13 Every single minor in this case, the first question
14 he asked was, "What is your age?" This is not a case where
15 scienter is an issue, where maybe Mr. Harris liked people who
16 came off as young, but didn't know their age. He knew their
17 age because he asked it, because it mattered to him, because
18 that's what he was attracted to.

19 And Dr. McGarrahan says -- when she's finding that
20 he's at a low risk of recidivism, she notes four factors that
21 she believes lowers the risk of recidivism; that he does not
22 have an attitude condoning sexual offenses, that he's not a
23 pedophile, that he's not antisocial, and that he is prosocial.

24 Even if all of those things are true, Judge, they
25 were all true at the same time and for the two years that he

1 was committing the offense conduct in this case. So those
2 factors can't be lowering his risk of recidivism because they
3 didn't stop him from committing the offense in the first place.

4 Defense also raises the issue of Mr. Harris'
5 developmental delays and the possibility that he was
6 emotionally less mature than his chronological or biological
7 age. And, again, those are factors that the government was
8 aware of and took into account, and that's the reason the
9 government's recommendation is 40 years below the guidelines
10 range.

11 But he still was substantially older than the
12 children that he was abusing. When he lured Minor 1 into a
13 bathroom, he was 19 and Minor 1 was 13. When he raped Minor 5,
14 he was 19 and Minor 5 was 15, four years older.

15 Likewise, Minor 4, while he was talking with Minor 4,
16 again, Mr. Harris was 19, Minor 4 was 15. And you heard the
17 testimony today that these are important developmental stages.
18 So not just four years, but a 15-year-old boy is a lot
19 different than a 19-year-old.

20 And I think what the Court needs to -- all the Court
21 needs to hear about, whether Mr. Harris was an adult in this
22 case, as said by Minor 5, when he said, "I was a child being
23 taken advantage of by an adult, an adult that knew exactly what
24 he was doing, and I knew nothing." And that is the nature of
25 the offense conduct in this case. Mr. Harris chose victims who

1 did not know what was happening, and he did, and he knew what
2 he was getting out of them. And that's why it was advantageous
3 to him to find them, because he could take advantage of them.
4 And he could take advantage of them more easily because he had
5 this persona of being kind and generous and a team player and
6 supportive and lifting people up, the light that is Jerry
7 Harris.

8 And while all those things may be true, they also
9 contributed to his ability to commit these crimes. Because
10 what they did was make people, like Minor 1, think that he was
11 talking to somebody who was very safe, somebody who was a
12 deeply good person, who was celebrated as a moral hero. They
13 had no reason to be guarded around him. They had no reason to
14 be careful about their interactions with him.

15 These are the actions of a sexual predator. Okay.
16 Harris was adept at appearing kind and generous, at showing
17 people what he knew that they wanted to see when they were
18 looking. And that makes him dangerous. It made him dangerous
19 to the people that he interacted with, and it will make him
20 dangerous to the people that he encounters when he's released
21 from prison.

22 This is not a one-time mistake by an innocent or a
23 misguided attempt at a relationship. Mr. Harris tried again
24 and again, at competition after competition, to get these boys
25 into bathrooms with him. This was intentional conduct. It was

1 concealed. It was extended abuse and exploitation of people
2 who were more vulnerable than him, of people who he knew looked
3 up to him because of the persona that he spent so much time and
4 energy presenting. And so a sentence of six years does not
5 acknowledge the seriousness of this offense and the
6 intentionality behind his conduct.

7 I want to also address the defense argument today and
8 the mitigation expert's position that Mr. Harris' conduct was
9 normalized within the cheer community.

10 In the papers that were submitted to the Court and in
11 the testimony today, you know, Your Honor has heard *ad nauseam*
12 that sexting is rampant, and sending nudes was normalized, and
13 unfortunately happens a lot more than anybody wants to believe.
14 But this is a straw man. This is a straw man that they're
15 setting up to knock down. Because sexting is not what Mr.
16 Harris did. It's the least of our problems here. He raped a
17 little boy in a bathroom stall. What does that have to do with
18 sexting? Nothing. Nothing.

19 And you heard today directly from Minor 1 and from
20 his brother about the character of the interactions.

21 So if we want to look only at the part of the offense
22 conduct that happened over phone screens in this case, that's
23 fine, because that wasn't sexting either. What that was was
24 pressuring. It was threatening to post publicly. It was
25 manipulating. And it was guilting and inducing and exploiting

1 people who were vulnerable.

2 So this narrative that the cheer world is somehow
3 responsible for this, that the cheer world raised Mr. Harris
4 and corrupted him and then failed him, it didn't do any of
5 those things, Judge. It provided him an opportunity which he
6 alone took.

7 He is the only person who these boys have accused of
8 abusing them. He's the only person indicted in this case. He
9 has no co-conspirators. There was nobody pressuring him to
10 engage in this conduct. He did not have to do what he did to
11 these boys. And he knew it was wrong. He knew because it had
12 happened to him. He knew because he'd been told that it was
13 wrong. You know he knew that it was wrong because he knew to
14 hide it. He told Minor 1's brother not to tell anybody. He
15 made Minors 2 and 3 swear on their mothers not to tell anybody.

16 And he deleted his accounts. He deleted their
17 photos. He threw out his phone when he found out that he was
18 being investigated. He knew what he was doing was wrong. And
19 so this attempt to portray his actions as somehow normalized is
20 just a deflection of blame here.

21 The failure of the cheer community or any other
22 community to provide supervision is only dangerous when there's
23 a predator present. But the absence of supervision, it doesn't
24 negate the predatory nature of what Mr. Harris did.

25 And the Court's sentence today has an expressive

1 function that can protect children from people like Mr. Harris,
2 by refusing to blur the lines between adolescent behavior,
3 which is legal, and abusing, exploiting vulnerable children,
4 which is what Mr. Harris did, which is illegal. And for good
5 reason.

6 A 15-year sentence sends a message to the community
7 that when an adult pays and pressures and threatens a child,
8 someone five, six years younger than him, to engage in sex
9 acts, it's not normal. It's a crime.

10 And it's all the more important today that the
11 Court's message send that -- the Court's sentence send that
12 message and make that clear in order to protect children who
13 are naive, who don't know better, children like Minor 1 who can
14 be led into thinking that they are finding a genuine friendship
15 here and who can't protect themselves.

16 The Court has heard a lot about Mr. Harris today and
17 about the troubles he's faced.

18 THE COURT: Before you move on --

19 MS. GUZMAN: Go ahead.

20 THE COURT: In response to something you said a few
21 moments earlier, do you want to clarify anything based on
22 footnote 4 of the defendant's version of the offense?

23 (Counsel retrieves item, then returns.)

24 THE COURT: The end of that footnote that goes on to
25 page 5 refers to another case.

1 MR. PUGH: Your Honor, are you referring to our
2 version or our memorandum?

3 THE COURT: The version of the offense.

4 MR. PUGH: Ah. Got it. Okay.

5 MS. GUZMAN: Judge, I'd just say that Mr. Harris is
6 the only person named in the indictment today. He's the only
7 person who's charged with this offense conduct. He didn't have
8 any accomplice in this. He didn't have anybody pressuring him
9 or helping him to do this, or putting this idea in his head.
10 And that was the point I was trying to make.

11 THE COURT: Understood. Thank you.

12 MS. GUZMAN: The Court has heard a lot today about
13 Mr. Harris, from day one of his life and the troubles that he's
14 faced, and the government's recommendation has taken all of
15 that information into account.

16 Fifteen years is the mandatory minimum on the
17 offenses that the government elected not to proceed on, but
18 which Mr. Harris has admitted to as stipulated offenses. And,
19 as defense counsel has noted, that decision was made earlier in
20 the case after a mitigation presentation. And that decision
21 was not to tie the Court's hands and not to commit at that
22 point to a mandatory minimum sentence.

23 But we've received more information now. We've
24 talked to the victims now. And it is now time to make a
25 recommendation to the Court, and the government's

1 recommendation today is 15 years.

2 And I think that it's worth paying attention to the
3 fact that for those offenses, that Congress determined that a
4 15-year sentence was the minimum *per se* for the crimes
5 committed by Mr. Harris, even without aggravating factors. And
6 there are aggravating factors in this case, like his use of
7 fame and influence, and the extended period of time over which
8 he personally harassed these boys.

9 The fact that he did it after he knew it was wrong in
10 February of 2020, when he contacted Minor 1 and said, "I'm
11 sorry. I shouldn't have done this to you," and immediately
12 reengaged. The fact that he -- and, actually, let me return to
13 the factor of recidivism.

14 The truth is that Dr. McGarrahan and Dr. Hutchinson,
15 they don't know, and the Court doesn't know, nobody knows what
16 Mr. Harris is going to do in the future. What we know is that
17 he had knowledge, that he had been reported and he was being
18 investigated, and he continued to engage in this conduct.

19 In February 2020, he knew -- we know he knew it was
20 wrong, because he texted Minor 1, "This is wrong. I shouldn't
21 have done this." Then in April and May, he was advised he was
22 under investigation. At that point, he knew it wasn't just the
23 wrong thing to do to somebody else. It was illegal. It was
24 against his own self-interest.

25 And he knew it was wrong. He deleted his screen

1 names. He deleted those photos and the messages from the
2 applications. He got a new phone. And he started right up
3 again when nothing happened. He reengaged almost immediately.
4 That is a person who doesn't have control of his behavior, at
5 least not yet. That is a person who cannot be trusted to
6 police himself. Because even given every opportunity to do so,
7 every reason to do so, he was unable to in this case.

8 This defense recommendation of six years does not
9 take into account the impact of this offense on the victims.
10 It is insufficient to recognize what was done to them.

11 You have heard from some of them in court today. And
12 there are others who are not present. They're not strong
13 enough or brave enough right now to come here, to stand in this
14 courtroom to face the person who exploited them, to revisit
15 what happened to them in gory detail and to talk about it in a
16 room full of strangers. But that doesn't mean that they don't
17 have something to say or that they won't be struggling with
18 this the same way Minor 1 and his brothers are for the rest of
19 his life.

20 These are teenage boys all striving for acceptance
21 who they believed they knew who Jerry Harris was, who thought
22 they were talking to somebody who was kind and generous and
23 safe and wouldn't do them harm, but, in fact, they were talking
24 to somebody who saw them as sex objects, who used their naivete
25 for his own gratification, to get them to do things that he

1 knew they didn't want to do.

2 They didn't ask for this. They didn't get anything
3 out of it. Minor 5's first sexual experience in life was being
4 anally penetrated by an adult twice his size in a bathroom
5 stall. Their lives are forever altered by what Mr. Harris did
6 to them for his own gratification. Their childhoods were
7 marked by this. Their middle school and high school years
8 overshadowed, colored by this.

9 Cheerleading is just as important to them as it is to
10 Mr. Harris, and it was ruined for them by what Mr. Harris did
11 to them. They now have trauma. They now have mental health
12 issues that they didn't have before. It changed who they were
13 as students. It changed how they relate to others. And, as
14 Minor 1's mother put it, Mr. Harris in a very real way handed
15 each of them a life sentence, something that they are going to
16 have to reckon with again and again throughout the course of
17 their lives, as they go to college, as they enter
18 relationships, as they have children, when they get married,
19 when they send their kids to school, when they drop their kids
20 off at cheerleading practice.

21 A sentence of six years would mean that Mr. Harris
22 is released when Minor 1 and his brother are transitioning from
23 high school to college; a transition that Mr. Harris was able
24 to make with the loving support of his cheer family, the 99
25 people who showed up in court today, and without any abuse

1 occurring in his life.

2 A sentence of six years will mean that Mr. Harris is
3 released at the time they're trying to make that transition,
4 which is difficult for normal kids who have not had trauma.

5 A sentence of 15 years will protect them while they
6 do that. It will allow them to make that transition, to
7 reestablish healthy identities, to take years to build back
8 their trust in other people, their joy, their trust in
9 themselves, the supportive and productive relationships that he
10 destroyed, without the shadow of his influence and without his
11 presence in their lives.

12 Nobody can give these victims back what Mr. Harris
13 took from them, but this Court can give them that, at least,
14 with its sentence. And that's the reason the government is
15 asking for a sentence of 15 years.

16 THE COURT: One question for you, Ms. Guzman.

17 There was some discussion earlier today about the
18 number of victims; that in Mr. Harris' statement, he said
19 between five to ten.

20 In the case, as it's been presented here and to me,
21 we have Minors 1 through 5. Are there others that have been
22 identified?

23 MS. GUZMAN: Yes, Judge. And some of the reports
24 that you have alluded to a couple of them. Minor 2 had another
25 friend who was also involved in some of the conversations.

1 There are. They were not all charged, but --

2 THE COURT: Understood. But to understand the scope
3 of the conduct, is there a number of known identified victims
4 who provided sexually explicit images to Mr. Harris beyond
5 Minors 1 through 5?

6 MS. GUZMAN: There are Minors 1 through 5 in the
7 indictment. There are two additional -- there's Minor 1's
8 brother and Minor 2's friend in the materials that the Court
9 has.

10 I don't know -- and I'm happy to ask the agents -- if
11 there's somebody else who was involved. But I do know that --
12 and I think the defense agrees -- Mr. Harris' statement was
13 five to ten.

14 THE COURT: That's fine. Thank you.

15 Mr. Harris, you now have an opportunity to address me
16 before I make my comments. And --

17 MR. PUGH: Do you want him before you or right here?

18 THE COURT: He could stay, he could stay seated, but
19 I would prefer that if he rotate and address his comments to me
20 so he can proceed.

21 THE DEFENDANT: I wrote it down so I will remember
22 everything.

23 (Defendant stands.)

24 THE COURT: You know, Mr. Harris, because of the
25 audio system in the courtroom, it's probably easier if you stay

1 seated so that you can be picked up by the microphone.

2 (Defendant sits.)

3 THE COURT: And counsel can just slide off a little
4 bit so that I can be sure to see Mr. Harris.

5 And, Mr. Harris, if you'd like to make a statement,
6 now's your opportunity to do so. You're not required to make a
7 statement, and I won't hold it against you if you choose not to
8 make a statement; but if you'd like to make a statement, now's
9 your opportunity.

10 THE DEFENDANT: Yes, yes.

11 Your Honor, thank you for this opportunity to address
12 the victims of my actions, my family, and you.

13 To those I have harmed, I am deeply sorry for all the
14 trauma my abuse has caused you. I pray deep down that your
15 suffering comes to an end and that these proceedings provide
16 you with some relief.

17 I am very ashamed as I know that I took advantage of
18 your youth and vulnerability. I was selfish and wrong. I hurt
19 you, and only I am to blame. I regret my decisions, and I am
20 deeply sorry.

21 All I can do going forward is to try to do better and
22 be a better person. I do not deserve forgiveness, but I do
23 pray that one day you might find it in your hearts. I promise
24 you that I will not let you down, that I will make my amends.

25 To the people who have loved and supported me through

1 everything, I am so thankful. You gave me moms after my mother
2 died. You showed me what a real family looked like. You gave
3 me a roof over my head. You loved me for the person that I
4 was. You taught me that I wasn't broken, and you tried to give
5 me a space to heal. You all have provided me with kindness and
6 inspiration through a very dark time. I am so sorry that I let
7 you down. I owe each of you a debt that I fully intend to
8 repay.

9 Finally, Your Honor, I pray that you can see me for
10 the human being that I am and not just someone who committed
11 terrible crimes. These past 22 months have been a time of
12 therapy, reflection, and self-discovery for me. Much of it has
13 been incredibly painful but deserved. I have had to confront
14 my past to understand what I have done.

15 My journey is not done, though. I am 22 years old,
16 Your Honor. I believe with all I am as a person that I still
17 have something very positive to contribute to this world. I
18 know that as a first step, I must take responsibility, and that
19 the next part of my life will be in prison.

20 I am not an evil person. I am still learning who I
21 am and what my purpose is. I am fighting to see a new path
22 forward. I will work every day to atone for what I have done
23 here and earn back everyone's trust. I am determined to make a
24 difference as an adult and do good things with my life. I ask
25 that you not give up on me. I am prepared to accept my

1 consequences, Your Honor.

2 Thank you.

3 THE COURT: Mr. Harris, now is the time where I
4 explain to you how I take all of this into account and arrive
5 at a conclusion.

6 You abused and exploited your victims, and you
7 committed and repeated harms that you yourself suffered. You
8 experienced and were on the brink of remarkable success and
9 stability, overcoming obstacles in your life that would have
10 crushed other people, and yet while achieving all that you
11 achieved, you also went out of your way in a persistent,
12 determined way to hurt people over whom you had real influence,
13 a kind of power that you abused.

14 This case is a tragedy. And in the ordinary case of
15 this kind, our society has decided, through statutes and
16 guidelines on the books, that someone who commits the crimes
17 you committed should be imprisoned for the rest of their life.
18 And in the ordinary case, with the crimes originally charged
19 against you, the law would require a sentence of at least 15
20 years in prison.

21 Yours is not the ordinary case. The prosecutor has
22 decided to drop some of the charges against you, which brings
23 the mandatory minimum down to five years. The prosecutors also
24 decided to recommend a sentence that is well below what the
25 sentencing guidelines recommend, which is 50 years in prison.

1 I still consider, though, these laws and guidelines
2 because they reflect the policy and moral judgments of the
3 people. These laws and policies treat your crimes as among the
4 worst things a person can do to another human being, to a
5 person under the age of 18.

6 It ought not to be controversial that teens are
7 worthy of protection. They don't fully understand the risks of
8 interacting with others. Teenagers especially think they're
9 more mature than they really are. And when someone hurts a
10 teen, especially in ways that have long-lasting and devastating
11 effects, the condemnation of that crime ought to be severe.

12 In the legal jargon, the question that I have to
13 answer is what sentence, what punishment sufficiently reflects
14 the seriousness of the offense, promotes respect for the law,
15 and imposes just punishment. And if people are paying
16 attention, what sentence will stop or deter other people from
17 exploiting teens and sexually assaulting and abusing them.

18 And within that question is the question of what
19 punishment also takes into account your history and
20 characteristics.

21 There's a common metaphor about scales and things
22 tipping the balance on one side of aggravation or on another
23 side of mitigation. That's not really an accurate metaphor for
24 what we do at sentencing. This is a very complicated,
25 multidimensional exercise that, in some ways, we boil down to

1 some number at the end of the day, which really doesn't do
2 effective communication of all the different aspects of human
3 life that we have to crystalize in these kinds of cases.

4 There has been, in some of the materials, a
5 suggestion that this is a case somehow about the typical social
6 media landscape within either typical adolescents or within the
7 cheer community. And I worry that there's a risk that people
8 who are less informed about the facts of this case might think
9 that this conduct is just the kind of conduct that teens engage
10 in; and that because you didn't have better guidance in
11 navigating over social media, your responsibility is
12 diminished. But that's not how I see this case.

13 Minor 5 did not want to have sex with you. He did
14 not consent. You sexually assaulted him. His statement that
15 he thought if he kissed you, that would get you off his back,
16 that statement is a very powerful statement about what some
17 victims go through when they know their abusers. They think,
18 "Maybe it'll stop if I do this much." That anyone felt that
19 they had to sacrifice part of themselves to get out of a worse
20 situation and then that failed, that's just a devastating harm
21 to them. That's why acquaintance rape is a serious crime
22 worthy of serious punishment.

23 You also attempted to sexually assault Minor 1, to
24 get him to perform oral sex in a bathroom at a cheer event,
25 when he was 13 and you were 19. You asked to have sex with

1 Minor 4 when he was 15.

2 All of this is not teenage flirtation. And the
3 social media landscape isn't responsible for your decision to
4 assault and attempt to assault your victims.

5 Paying teens to send you images, that's not teenage
6 flirtation either. That's exploitation.

7 Encouraging Minor 2 to become a sex worker, to
8 perform a sex act in exchange for money, that's exploitation.

9 Threatening Minor 5 to expose images if he didn't
10 send you more, that's exploitation.

11 Within the cheer community, you were prominent,
12 someone young people admired. One of your friends' videos that
13 was submitted to me explained how important these elite cheer
14 teams are to the broader cheer community. Anyone on Navarro or
15 on the Cheetahs was revered.

16 You abused that influence. Asking for explicit
17 images after creating an inspirational video for Minor 1,
18 that's another example of how you used and abused your
19 influence to exploit others.

20 You have a great talent for motivating people. That
21 charisma, that energy can be a good thing. But it also gave
22 you the opportunity and ability to exploit your victims, and
23 that made you more dangerous to others.

24 You knew what was appropriate and inappropriate.
25 Your conduct, when advised that there was going to be scrutiny

1 of your behavior, demonstrates that you understood that what
2 you did here was wrong. And you have not denied that.

3 And social media did play a role here. These
4 applications, these platforms make it easy to communicate and
5 obtain images. Because of that, your crimes were easy to
6 commit.

7 And your exposure to an online culture of
8 exploitation at a young age probably did steer you into certain
9 behaviors before you could fully understand the damage and harm
10 that they caused you.

11 Crimes that are easy to commit but have a devastating
12 effect, that's among the reasons why the penalty for them ought
13 to be high. The point of harsh punishment is to try to deter
14 people from entering these dangerous worlds that traffic in the
15 abuse of children. And apart from deterrence, punishment
16 signals or communicates society's condemnation of this
17 behavior.

18 The idea that because of technology, some conduct is
19 more widespread than it used to be does not mitigate the damage
20 the criminal behavior causes, especially in your case where the
21 exchange of images was geared toward in-person sexual assault
22 and abuse.

23 You used the social media environment to, for
24 example, persuade Minor 1 to generate illegal images repeatedly
25 and then used technology to persuade him and others to meet in

1 person so that you could abuse them.

2 Victims of abuse sometimes become abusers. You did.
3 Our current criminal justice system, with its emphasis on
4 incarceration, is not really well equipped to address the
5 psychology involved in that cycle.

6 In your case, your development was compromised by
7 your experience as a victim of both physical sexual abuse and
8 with exposure to pornography and online interactions at a young
9 age.

10 Understanding that background does help me think
11 through how much incarceration is necessary to protect the
12 public from you. Because if we can understand why you did what
13 you did, there are alternatives to decades of incarceration
14 that can control your behavior. We have other measures to
15 protect the public from you. You can be supervised and you can
16 receive help to process and live with your past trauma.

17 I am skeptical of some parts of Dr. Hutchinson's
18 report, but I do credit what Dr. McGarrahan says about your
19 prosocial disposition. That's borne out by all the favorable
20 things that your friends and family say about you.

21 I also credit, at least in part, the conclusion that
22 your risk of re-offending can be managed outside of an
23 institutional setting.

24 I also credit what has been said about your personal
25 history causing developmental delays, addictive behaviors, and

1 how your youth at the time of the offense conduct should be
2 viewed as mitigating.

3 I mentioned earlier that teenagers deserve
4 protection. Well, in part because they don't fully understand
5 the risks of interacting with others.

6 Well, you were a teenager, too, for a time here, and
7 barely past your teenage years when you committed these crimes.
8 As a 19- or 20-year-old, you hadn't fully matured. And we do
9 generally, as a society, think younger people are less culpable
10 than adults who have had the benefit of healthy developmental
11 opportunities.

12 And beyond your chronological age, there is reason to
13 think that your life history left you delayed in development
14 and more like an adolescent at the time of your offense conduct
15 than as an adult. Many people who certainly know you better
16 than I will ever know you saw you more like a child than
17 someone ready for adulthood.

18 That history, the one that led to your slowed
19 development, a lot of that history is not your fault, not your
20 responsibility, and that factors into my evaluation of how long
21 a sentence you should serve.

22 I do think you are capable of forming age-appropriate
23 relationships, and that's important when I think about how to
24 protect the public from you.

25 We have heard from some today, and it's a theme in

1 some of the submitted materials, that the cheer community bears
2 some responsibility for your crimes. And there has been a
3 comment or an argument about how the way that industry mixed
4 ages and encouraged relationships skewed your own perception of
5 appropriate behavior.

6 If an institution, any institution, creates or
7 fosters a culture of abuse, that institution deserves to be
8 condemned and maybe even dissolved.

9 What's regrettable in your case is that you had some
10 resources and interventions available to you, especially around
11 the time of this offense conduct. By that point, you had a
12 group of available mentors and parental figures.

13 It really is regrettable that there was no
14 intervention that helped you better navigate your identity and
15 relationships and your addictive behaviors. The lack of
16 follow-through on certain interventions, where more could have
17 been done, more that perhaps your family could have addressed,
18 that is regrettable here.

19 The fact that outside forces and influences, and the
20 lack of acceptance from your family, and the lack of positive
21 interventions, including some deeply-rooted societal forces,
22 that those affected your behavior is not unusual. Very few
23 crimes are committed in a vacuum. Maybe there are other people
24 in institutions who should also bear some consequences for
25 contributing to your environment and your development, but that

1 doesn't change or lessen the harm that you caused.

2 And that is the weightiest factor for me when I think
3 about a prison sentence for you. The harm on the victims, as
4 we've heard today, and as is in the materials, is very deep and
5 likely long-lasting. Retribution or, to put it maybe more
6 crassly, revenge might suggest that the isolation that the
7 victims felt should correspond to the isolation of prison.
8 Perhaps knowing that you are not free gives some comfort to
9 your victims.

10 And, of course, it takes a lot of bravery and courage
11 to revisit trauma by expressing its effects, which, of course,
12 is true for the victims and is, in part, true for yourself, Mr.
13 Harris, as you have gone through this process.

14 I do consider your unusually deep and broad network
15 of support. I agree with Ms. Short that the volume of support
16 that you have is really quite remarkable. For someone with
17 your background of poverty, homelessness, food insecurity,
18 bullying, lack of parental support from your father, certainly,
19 childhood educational, psychological, and physical challenges,
20 and what I would call a mixed, certainly, complicated positive
21 and negative relationship with your mother, and what I don't
22 doubt is the effect of racism in trauma that you experienced in
23 your life, for someone with all of that background, to emerge
24 as a successful student, an elite competitor, and to have
25 earned the community of supporters that you have -- because you

1 have earned the support of the people that are here with you --
2 that is a testament to your abilities and your character.

3 You succeeded when you were set up to fail. That
4 work ethic translates, I hope, to the ability to do the work
5 you will need to do to be a safe member of the community. You
6 have started some of that process while in custody.

7 In some cases of child exploitation, we worry that a
8 defendant is irredeemable. I don't think that's your case.
9 You are not hopeless.

10 Trauma, the kind of trauma you experienced, is not so
11 easily put in the rear-view mirror. So even though, at the
12 time of this offense, you were in circumstances that were much
13 improved from your background, that doesn't mean that the
14 trauma that you experienced in your past wasn't having
15 continued effects on you. And it's going to take work to try
16 to recover from that.

17 Neither the prosecutor nor the Probation Office is
18 suggesting that you be in prison for the rest of your life, or
19 even for the 50 years that the sentencing guidelines recommend.
20 So you will be out some day.

21 And at your current age, I think about whether there
22 is a window of time available to you to be a productive member
23 of society. Too much time away from your support network could
24 lower the chance of success. Things change. People change.

25 Time is not just a number. Time is human existence.

1 Days, months, years. That's how we live. And I have to think
2 about what that time means both for you and for the rest of
3 society.

4 And as I think about that time, I also think about
5 the fact that you pled guilty. You have been cooperative and
6 forthcoming about your conduct. You have demonstrated a
7 willingness to change and accept help. Those are good signs
8 for your future and for the safety of the community when you
9 return.

10 Whether this is remorse or regret, it's -- that might
11 be too difficult to answer for anyone. What I can say is that
12 the expression of remorse, the expression and acknowledgment of
13 harm that you caused is a sign that you have an understanding
14 of your behavior and your conduct, and that's important.

15 You will bear consequences beyond imprisonment, as
16 Mr. Pugh listed them all out, sex offender registration,
17 ongoing supervision. And then there will also be financial
18 penalties.

19 Cheer was a huge part of your identity. And to be
20 officially ostracized from that industry is, no doubt, a blow.
21 Frankly, those consequences are to be expected. You abused
22 your position in cheer to commit your crimes.

23 But the fact that we may have other tools at our
24 disposal to protect the community does affect the need to
25 incarcerate you. Because if we can protect other children from

1 future behavior on your part through something less costly than
2 incarceration -- and by cost, I mean not just dollars and
3 cents, but the human toll that incarceration extracts -- we
4 ought to think about that.

5 You have no record of other misconduct. There's no
6 evidence that you distributed images of child pornography or
7 otherwise participated in the wider black market of child
8 exploitation. You don't have a criminal history. You've never
9 been to prison. Those are signs that you can be a
10 rule-follower in most every other aspect of life.

11 And prison, for a first-time offender, should be, we
12 hope, an effective deterrent without stretching into decades,
13 especially having served time during the pandemic. I hope you
14 don't need any convincing that you never want to be in a prison
15 cell again.

16 At the end of this whole process, I have to decide on
17 a number, a length of incarceration. The United States
18 sentencing guidelines recommend the maximum of 50 years. The
19 Probation Office in this case has recommended 22 years. The
20 prosecutor recommends 15 years. Your lawyers recommend 6
21 years. The mandatory minimum that's set by Congress for the
22 charges you have pled guilty to requires at least 5 years. So
23 those are a lot of numbers and I have to take them all into
24 account.

25 And ultimately, in your case, I think the length of

1 incarceration is best viewed as an expression of the
2 seriousness of your crimes tempered with some hope that all is
3 not lost for you or for your victims. And that in the future,
4 some healing can occur that everyone would benefit from.

5 Before I announce the sentence, Mr. Pugh, have I
6 addressed the principal arguments in mitigation?

7 MR. PUGH: I believe you have, Your Honor.

8 THE COURT: Mr. Harris, it's my judgment that you be
9 committed to the custody of the Bureau of Prisons to be
10 imprisoned for a total term of 144 months on Counts Three and
11 Seven, to be served concurrently.

12 The costs of incarceration are waived.

13 A special assessment of \$100 per count is due
14 immediately.

15 I am imposing a \$5,000 special assessment on Count
16 Three and a \$5,000 special assessment on Count Seven under the
17 JVT A.

18 And I am now imposing a special assessment under the
19 AVAA of \$35,000.

20 You do have resources now, and that special
21 assessment is an appropriate imposition considering the nature
22 of your crimes, the goals of that assessment, and your ability
23 to pay.

24 Restitution will be deferred pending further
25 briefing.

1 I am not imposing a fine because, in light of the
2 other financial penalties I am imposing, I do conclude you're
3 not -- you won't be able to pay a fine.

4 Upon release from imprisonment, you will be placed on
5 supervised release for a term of eight years for the reasons I
6 explained earlier.

7 And I have now fully considered the 3553(a) factors,
8 and they all justify the conditions that I explained I intended
9 to impose earlier, and I now impose them.

10 The costs of supervision are waived.

11 Mr. Harris will be remanded to the custody of the
12 Marshal.

13 Are there any recommendations the defense would like
14 to make with respect to the Bureau of Prisons?

15 MR. PUGH: Your Honor, we've given that some thought,
16 and we're not going to ask for a judicial recommendation due to
17 the fact that Bureau of Prisons has a limited number of
18 facilities that can accommodate him. And I think he has some
19 special security needs as well. So I didn't -- I'm not going
20 to ask the Court to interfere in that.

21 THE COURT: Mr. Harris, in your plea agreement, you
22 have largely waived your rights to appeal, but I am required to
23 advise you that any notice of appeal must be filed within 14
24 days of entry of judgment.

25 If requested, the Clerk will prepare and file a

1 notice of appeal on your behalf.

2 If you can't afford to pay the costs of an appeal or
3 for a lawyer on appeal, you can apply to have the Court waive
4 those costs and appoint you a lawyer.

5 Mr. Pugh, or anyone else on behalf of the defense, is
6 there anything further you'd like me to address?

7 MR. PUGH: Nothing further, Your Honor.

8 THE COURT: Ms. Guzman, is there a motion to dismiss
9 the remaining counts?

10 MS. GUZMAN: Yes, Your Honor.

11 THE COURT: That motion is granted.

12 I didn't circle back on whether the government makes
13 a motion for the third point for acceptance of responsibility.

14 Do you make that motion?

15 MS. GUZMAN: We do.

16 THE COURT: That motion is also granted.

17 Mr. Alper, have I forgotten anything from Probation's
18 perspective?

19 MR. ALPER: Just to clarify, Your Honor, for the
20 record, all other conditions of supervised release that were
21 recommended in the PSR are imposed with the added comments
22 earlier?

23 THE COURT: Correct.

24 MR. ALPER: Thank you.

25 THE COURT: Thank you.

1 Then that will conclude the sentencing. I appreciate
2 the presentation from the parties. And we will be in recess.

3 MS. GUZMAN: Thank you, Your Honor.

4 MR. PUGH: Thank you, Your Honor.

5 (Proceedings concluded.)
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C E R T I F I C A T E

I, Colleen M. Conway, do hereby certify that the foregoing is a complete, true, and accurate transcript of the Sentencing proceedings had in the above-entitled case before the HONORABLE MANISH S. SHAH, one of the Judges of said Court, at Chicago, Illinois, on July 6, 2022.

/s/ Colleen M. Conway, CSR, RMR, CRR

07/25/22

Official Court Reporter
United States District Court
Northern District of Illinois
Eastern Division

Date